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Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

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## Official Report of Debates (Hansard)

JP-27

## Journal des débats (Hansard)

JP-27

### Standing Committee on Justice Policy

Cannabis, Smoke-Free Ontario  
and Road Safety Statute Law  
Amendment Act, 2017

2<sup>nd</sup> Session  
41<sup>st</sup> Parliament

Thursday 7 December 2017

### Comité permanent de la justice

Loi de 2017 modifiant des lois  
en ce qui concerne le cannabis,  
l'Ontario sans fumée  
et la sécurité routière

2<sup>e</sup> session  
41<sup>e</sup> législature

Jeudi 7 décembre 2017

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Chair: Shafiq Qaadri  
Clerk: Christopher Tyrell

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Président : Shafiq Qaadri  
Greffier : Christopher Tyrell

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## CONTENTS

Thursday 7 December 2017

Cannabis, Smoke-Free Ontario and Road Safety Statute Law Amendment Act, 2017, Bill 174, Mr. Yasir Naqvi / Loi de 2017 modifiant des lois en ce qui concerne le cannabis, l'Ontario sans fumée et la sécurité routière, projet de loi 174, M. Yasir Naqvi.....	JP-597
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Annual Report

The following table shows the results of the work done during the year 1900-1901. The work was done under the direction of the Board of Directors, and the results are given in the following table.

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
JUSTICE POLICYCOMITÉ PERMANENT  
DE LA JUSTICE

Thursday 7 December 2017

Jeudi 7 décembre 2017

*The committee met at 0900 in committee room 1.*CANNABIS, SMOKE-FREE ONTARIO  
AND ROAD SAFETY STATUTE LAW  
AMENDMENT ACT, 2017LOI DE 2017 MODIFIANT DES LOIS  
EN CE QUI CONCERNE LE CANNABIS,  
L'ONTARIO SANS FUMÉE  
ET LA SÉCURITÉ ROUTIÈRE

Consideration of the following bill:

Bill 174, An Act to enact the Cannabis Act, 2017, the Ontario Cannabis Retail Corporation Act, 2017 and the Smoke-Free Ontario Act, 2017, to repeal two Acts and to make amendments to the Highway Traffic Act respecting alcohol, drugs and other matters / Projet de loi 174, Loi édictant la Loi de 2017 sur le cannabis, la Loi de 2017 sur la Société ontarienne de vente du cannabis et la Loi de 2017 favorisant un Ontario sans fumée, abrogeant deux lois et modifiant le Code de la route en ce qui concerne l'alcool, les drogues et d'autres questions.

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. As you know, we're here for clause-by-clause consideration of Bill 174. I will ask a general question, then I will ask for standing down the first three sections, and then we'll move to the individual clauses.

The general question is: Are there any general questions or comments about the bill? I see you're not adequately caffeinated to address that, but in any case, we'll move forward. I'm going to stand down sections 1, 2 and 3, the first part, and then we'll move to NDP motion 1. I have now been directed by the powers that be that I need to actually individually cite the motions.

We are now on schedule 1 to the bill, clause 1(c), the Cannabis Act, 2017. NDP motion 1: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that clause 1(c) of schedule 1 to the bill be amended by striking out "approved youth education or prevention programs as an alternative" and substituting "approved youth education or prevention programs, including culturally appropriate programs for indigenous youth, as an alternative".

**The Chair (Mr. Shafiq Qaadri):** Do you have any comments or questions? The floor is yours. If not, we'll proceed to the vote. Mr. Potts?

**Mr. Arthur Potts:** Do you want to say something about it first?

**Mr. Taras Natyshak:** Just simply that the purpose is to include youth in education prevention programs that are culturally appropriate for indigenous youth. The Chiefs of Ontario have been very clear about the importance of culturally appropriate programming.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts.

**Mr. Arthur Potts:** So we can get off in this hearing in a very positive way of accommodation, I appreciate very much the motion, and we'll be supporting it on this side of the House.

**The Chair (Mr. Shafiq Qaadri):** We'll proceed to the vote, then. Those in favour of NDP motion 1? Those opposed? NDP motion 1 carries.

Shall schedule 1, section 1, as amended, carry? Carried.

We'll consider three sections en bloc. Shall sections 2, 3 and 4 of schedule 1 carry? Carried.

We're now moving to a new schedule: schedule 1 to the bill, section 4.1, the Cannabis Act, 2017. NDP motion 2: Mr. Natyshak.

**Mr. Taras Natyshak:** We're at number 2, Chair?

**The Chair (Mr. Shafiq Qaadri):** Yes, motion 2.

**Mr. Taras Natyshak:** Okay. I move that schedule 1 to the bill be amended by adding the following section: "Nothing in this act shall be interpreted as abrogating the existing aboriginal and treaty rights of the indigenous peoples of Canada."

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak, I need you to read it again and to read all of it, including the bolded titles, with conviction.

**Mr. Taras Natyshak:** Okay. Pardon me, Chair. I'm just trying to get things moving here.

I move that schedule 1 to the bill be amended by adding the following section:

"Interpretation, aboriginal and treaty rights

"4.1 Nothing in this act shall be interpreted as abrogating the existing aboriginal and treaty rights of the indigenous peoples of Canada."

**The Chair (Mr. Shafiq Qaadri):** Are there any further comments on NDP motion 2, either from the NDP or elsewhere?

**Mr. Taras Natyshak:** Sure, Chair. It simply clarifies that nothing in the act abrogates the rights of indigenous people. The act is silent about the application of its tough enforcement provisions with respect to cannabis sales and distribution on reserves. We believe that this amendment would provide important clarification.



**The Chair (Mr. Shafiq Qaadri):** Any further comments? Mr. Potts.

**Mr. Arthur Potts:** While we fully respect the rationale behind this, it is the governing law in Ontario that we do respect treaty rights, so this becomes redundant and we'll be voting against it.

**The Chair (Mr. Shafiq Qaadri):** Any further comments? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 2? Those opposed? NDP motion 2 falls.

We'll consider the next six sections en bloc, which are sections 5 to 10 of schedule 1, as we've received no amendments or motions for them so far. Shall sections 5 to 10, inclusive, of schedule 1 carry? Carried.

Schedule 1, section 11, which is schedule 1 to the bill, clause 11(1)(b), the Cannabis Act, 2017. NDP motion 3: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that clause 11(1)(b) of schedule 1 to the bill be struck out and the following substituted:

"(b) a workplace within the meaning of the Occupational Health and Safety Act that is not a dwelling;"

**The Chair (Mr. Shafiq Qaadri):** Comments? Questions? Mr. Hillier?

**Mr. Randy Hillier:** I think that adds some clarification. We'll be supporting that amendment.

**The Chair (Mr. Shafiq Qaadri):** Any further comments?

**Mr. Taras Natyshak:** For clarification, Chair, the Cannabis Act establishes the principles that non-medical cannabis use be allowed only in a residence, but as written, the act discriminates against low-income people, seniors, the disabled, and others who live in housing other than a single-family home.

The Smoke-Free Ontario Act already allows the use of tobacco and non-medical cannabis by residents living in group homes, supportive housing and other shared housing arrangements, while protecting neighbours and workers from the impacts of tobacco and medical cannabis smoke.

The NDP has tabled amendments to schedule 3 to ensure that the same protections also apply with respect to non-medical cannabis. There is no need for the government to discriminate against people living in shared or supportive housing and prohibit them from using what is to become a legal product, while the government already agrees with the principles that such people are entitled to smoke tobacco and medical cannabis in their own home.

**The Chair (Mr. Shafiq Qaadri):** Further comments? Mr. Potts?

**Mr. Arthur Potts:** The rationale of it is in regard to residential, whereas the motion deals with workplaces. Could you clarify why you're talking about multi-residential when your motion deals with workplaces?

**Mr. Taras Natyshak:** Sometimes they are the same thing. A person's private residence can also be considered as their workplace. It's a matter of clarification, and

it's sort of a gap that we identified, that may have been unintended.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts?

**Mr. Arthur Potts:** We're a little concerned because more stakeholder consultation would be needed. We're a little concerned that this could make it as a right to smoke medical marijuana in a daycare or some other sensitive place. I think we need to deal with this in regulations, and we're certainly open to having that conversation. We'll be voting against the motion.

**The Chair (Mr. Shafiq Qaadri):** Any further comments? Mr. Romano.

**Mr. Ross Romano:** Perhaps a friendly amendment would be to include an exemption provided that your workplace is your residence.

**Mr. Arthur Potts:** It's the same issue for daycares, and—

**The Chair (Mr. Shafiq Qaadri):** The bill is time-allocated. Friendship is not welcome here.

**Mr. Ross Romano:** I would say that there are some ways for an exemption to clarify that issue.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 3? Otherwise, we're proceeding to the vote. Mr. Hillier?

**Mr. Randy Hillier:** I think maybe that does add some clarification. If we change "a workplace within the meaning" to "other than a residence," it might alleviate those concerns raised by Mr. Potts.

**The Chair (Mr. Shafiq Qaadri):** Fair enough. Just to be clear, time-allocated bills will not welcome friendly amendments. Mr. Natyshak.

**Mr. Taras Natyshak:** Chair, I believe the Smoke-Free Ontario Act already allows the use of tobacco and non-medical cannabis by residents living in group homes, so this just aligns the bill with the same provisions.

**The Chair (Mr. Shafiq Qaadri):** We'll proceed to the vote then. Those in favour of NDP motion 3? Those opposed? NDP motion 3 falls.

Next is schedule 1 to the bill, section 11, the Cannabis Act, 2017. NDP motion 4: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that section 11 of schedule 1 to the bill be amended by adding the following subsection:

"Exception

"(1.1) Despite subsection (1) and subject to the regulations, a person may consume cannabis in an outdoor area of a multi-unit dwelling that has been designated as an area that accommodates the consumption of cannabis."

To clarify: We heard deputations from the Canadian Heart and Stroke Foundation that strongly urged that residents of multi-family buildings be allowed to smoke cannabis in designated outdoor areas. This amendment would allow this, subject to regulation. While it's true that section 5(4) of the act would allow the LG in Council to exempt outdoor areas of multi-family residences via regulation if it chooses, it's important that multi-family residences be specifically included in statute and not risk them being an afterthought.



**The Chair (Mr. Shafiq Qaadri):** Further comments? Mr. Potts.

**Mr. Arthur Potts:** We agree, again, with the policy intent, but it's best dealt with in regulations, and that's fully open in the scope here. We know that that's a serious concern for people in multi-residential, and we look forward to the input in the regulation process, but we will be voting against it.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier?  
0910

**Mr. Randy Hillier:** Too often we're hearing this—that it will be dealt with in regulation. It won't be dealt with by the Legislative Assembly in regulation.

We're tasked with ensuring that the law is written and illustrates and identifies the purposes that the government has stated. This amendment is in keeping with the statements by the minister and is consistent with what we've heard through the committee hearings. I think it is indeed most appropriate to incorporate that into the statute, where it has the light of day shone on it and not some backroom process through regulations.

If it is indeed the government's intention to permit designated areas, then they should be supportive of this amendment—unless they really aren't supportive of this.

**The Chair (Mr. Shafiq Qaadri):** Further comments? Madame Des Rosiers.

**M<sup>me</sup> Nathalie Des Rosiers:** I think there's an issue as it's worded: "has been designated as an area." We don't know who is going to designate it, and that's an issue that may be properly explained or defined in the context of a regulation. I think one of the issues here is the way it's worded.

**Mr. Randy Hillier:** Just to follow up on that: In the act, the Lieutenant Governor in Council, the cabinet, has the authority to designate areas already.

**M<sup>me</sup> Nathalie Des Rosiers:** That's correct: 11(1)(d) says "any prescribed place." So you could do under this exactly—and that's I think what Mr. Potts is saying. I think that a regulation is required to define what a prescribed place is. If you add this, you are using different words and implying that someone else would be designating the place. There's just confusion as to the word "designated." Since we can't do friendly amendments, I think that's the reason why we're going to vote against it. But we understand the policy intent, and we agree with it.

**The Chair (Mr. Shafiq Qaadri):** If there are no comments further, we'll move to the vote. Those in favour of NDP motion 4? Those opposed? NDP motion 4 falls.

Shall schedule 1, section 11 carry? Carried.

We move now to schedule 1, section 12. We're now on schedule 1 to the bill, subsection 12(1), the Cannabis Act, 2017. NDP motion 5: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsection 12(1) of schedule 1 to the bill be struck out and the following substituted:

"Transporting cannabis

"(1) No person shall drive or have the care or control of a vehicle or boat, whether or not it is in motion, while

any cannabis is visible and readily available for immediate consumption to any person in the vehicle or boat."

The rationale behind the amendment is that we believe it clarifies and simplifies the rules about transporting cannabis. The Cannabis Act prohibits all transporting of cannabis by car or boat, with the exception of cannabis that is packed in baggage that is sealed "closed or is not otherwise readily available." We're not sure precisely what that means, and we believe that it's going to be confusing given the vague nature of what the term "closed or is not otherwise readily available" means.

We can envision scenarios where customers have purchased cannabis from the government cannabis store and have inadvertently placed it in their pocket on their way home or to wherever they're going and can find themselves fined, with a penalty of up to \$100,000. So we'd like the government and the committee to consider this amendment.

**The Chair (Mr. Shafiq Qaadri):** Any comment? Mr. Potts.

**Mr. Arthur Potts:** Once again, I appreciate the content, but the way it is now and is written now, it aligns with how we do the enforcement of alcohol. Law enforcement has comfort in that. It's a sealed container. You can't be having a 40-ouncer that's open and half-consumed under your seat; it has to be a closed container. Likewise, when you'll be buying from a shop, it will be a sealed package that you're leaving with. If it's sealed and in the glovebox, it wouldn't be an issue. It's a law enforcement ask. It's a consistent way of enforcement, so we think we should leave it the way it is for now.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 5: Mr. Hillier?

**Mr. Randy Hillier:** Yes. I'll just say that in reading of the Highway Traffic Act, I believe that this is far closer in alignment with the Highway Traffic Act. It permits the transportation of a legal product, but not readily accessible. I think you've gone significantly further in the treatment of cannabis for transportation than you do with alcohol, the way the legislation is presently written. We'd be in favour of this amendment.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.

**Mr. Taras Natyshak:** I appreciate the comments by my colleague Mr. Potts, but your answer was as confusing as the legislation is. You had mentioned—I don't know if we can have it read back in the record, but you mentioned that if it's in the glovebox, that's okay. Are you certain about that?

**Mr. Arthur Potts:** There are two pieces of this: visible and readily accessible. So if it's a closed container like a case of beer that hasn't been opened, then it wouldn't be an issue.

**Mr. Taras Natyshak:** So if it's in the glovebox, that's not considered readily accessible? I'm just asking for clarification.

**Mr. Arthur Potts:** It's not visible at that point.

**Mr. Taras Natyshak:** Is it then not readily accessible?

**Mr. Arthur Potts:** And if it's not opened, it's not readily accessible.



**Mr. Taras Natyshak:** Okay. So there are enough vagaries in the act that we respectfully submit that if we could have some clarification here, that would give consumers a lot more confidence in how they transport it and not be subject to a \$100,000 fine inadvertently.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier and then Mr. Romano.

**Mr. Randy Hillier:** I would just suggest that if somebody had a bottle of beer or a can of beer that wasn't opened yet but was in the glove compartment, and they were pulled over, then that can of beer or bottle of beer would actually be seized and it would be a violation. So I think the amendment is in keeping with the expectation and the present treatment of transporting legal products that can cause impairment.

**The Chair (Mr. Shafiq Qaadri):** Mr. Romano.

**Mr. Ross Romano:** Since we obviously know the direction that the government is going to be taking on this motion as well, I would just add that when you're reviewing—I agree with the nature of the amendment that's being put forward. I would also suggest that the wording, as opposed to simply a motor vehicle or a boat, would probably be the best to keep consistent language to how it is in the Highway Traffic Act and Criminal Code so as to bring in all motorized vehicles as defined in the relevant legislation, whether it's an ATV or a side-by-side. I could see a lot of shots being taken by lawyers out there over the specific definition.

**The Chair (Mr. Shafiq Qaadri):** We'll proceed to the vote. Those in favour of NDP motion 5? Those opposed? NDP motion 5 falls.

We'll now move to the next amendment, on schedule 1 to the bill, subsection 12(2), the Cannabis Act, 2017. NDP motion 6: Mr. Natyshak.

**Mr. Taras Natyshak:** I'd like to withdraw that.

**The Chair (Mr. Shafiq Qaadri):** Motion 6 is withdrawn.

To the next one, on schedule 1 to the bill, subsection 12(3), the Cannabis Act, 2017, NDP motion 7: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsection 12(3) of schedule 1 to the bill be struck out.

**The Chair (Mr. Shafiq Qaadri):** Comments?

**Mr. Taras Natyshak:** It removes the subsection that allows police to search a vehicle, a boat and everyone in it without warrant if the police suspect that cannabis is being illegally transported. We believe that the government has not explained why the police need this power, which again invites unintended consequences.

The government is currently debating Bill 175, a bill that is meant to address policing issues, including the issue of discriminatory and differential policing. The government is well aware of how certain police powers can be misused, especially at traffic stops. Unless there's a compelling and demonstrable need for this power, it should not be included in the Cannabis Act.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on NDP motion 7?

**Mr. Arthur Potts:** We'll be voting against this. If we had to wait for a warrant to get the seizure, it would be unenforceable. Police, under the law currently, have to have reasonable grounds, and that would be a test in court.

**The Chair (Mr. Shafiq Qaadri):** Any further comments?

**Mr. Ross Romano:** Yes. As long as there are reasonable grounds, they have the authority in common law to search nonetheless.

0920

**The Chair (Mr. Shafiq Qaadri):** Thank you. We'll proceed to the vote. Those in favour of NDP motion 7? Those opposed? NDP motion 7 falls.

Shall schedule 1, section 12 carry? Carried.

We'll now proceed to the next section, schedule 1 to the bill, subsection 13(1), the Cannabis Act, 2017. NDP motion 8: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsection 13(1) of schedule 1 to the bill be struck out and the following substituted:

"Landlords

"(1) No person shall knowingly enter into or renew an agreement with a commercial tenant to permit a premises of which he or she is a landlord to be used in relation to an activity prohibited by section 6."

**The Chair (Mr. Shafiq Qaadri):** Further comments to NDP motion 8? Mr. Hillier.

**Mr. Randy Hillier:** I think that adds some better wording into the statute. It's really adding in a commercial landlord and would safeguard residential landlords from very significant penalties and fines if one of their tenants was violating the law.

I think that was the expectation and the intention of government: to have very powerful tools for commercial distribution of cannabis. It has been telegraphed very clearly that dispensaries are in the crosshairs, that the government does not want commercial dispensaries that are not operated by the cannabis retail corporation. I don't believe the intention is to have such significant penalties possible for a residential landlord who happens to have a tenant who sells cannabis.

**The Chair (Mr. Shafiq Qaadri):** Further comments to NDP motion 8? Mr. Potts.

**Mr. Arthur Potts:** I'll just say quickly that this does address illicit selling, as you've acknowledged. More importantly, we need to hold the landlord liable so that he or she can't be turning a blind eye and say it was unknowingly. I think the way it's worded now is stronger, and so we'll be voting against this motion.

**Mr. Randy Hillier:** Do you really think that the level of fines for a residential landlord that are incorporated in this—I think that's a very heavy hand that's being taken.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.

**Mr. Taras Natyshak:** Chair, I'd just simply say that these measures aren't consistent, as currently written in the bill, with what the treatment would be under the Liquor Control Act. So if a landlord had a tenant who was brewing illegal alcohol in their residence, the same



provisions wouldn't apply to that landlord. We're asking for parity, the same treatment as it would be under the liquor act.

I think it's unreasonable to ask landlords, who typically aren't residents of the dwellings they lease, to patrol the activities of each tenant of that dwelling. You're charging them with a responsibility that should rest on our police services rather than the landlords.

This clarifies what their responsibility would be at the point of renting a unit. They would have to knowingly enter into an agreement. So no person shall knowingly enter an agreement with a commercial tenant to permit a premises which they would know would harbour illegal activity.

**The Chair (Mr. Shafiq Qaadri):** Mr. Romano, and then Madame Des Rosiers.

**Mr. Ross Romano:** With respect to comments made earlier, I believe by Mr. Potts, the law already covers offences such as aiding and abetting, and that is essentially what you were referring to. If a landlord knowingly, or ought to know, that a tenant is carrying on an illegal activity, then they would be guilty of the criminal offence of aiding and abetting in that particular offence.

With respect to the comment Mr. Natyshak just made, I think he makes a very valid point. It's not specifically as it's worded here. But by using the term "reasonably know," you're creating a very objective test, and that does not impute what you're specifically after, which are things that a person knows, ought to know or is recklessly or wilfully blind to.

Perhaps if that's what you're trying to cover, then that's the way it should be written, because simply writing "reasonably know" is creating a much more objective test that doesn't define whether it's recklessness, wilful blindness or knowledge that you're seeking to—I'll use the word "criminalize." I think that's the difficulty.

**The Chair (Mr. Shafiq Qaadri):** Madame Des Rosiers.

**M<sup>me</sup> Nathalie Des Rosiers:** I just wanted to point out that subsection 13(2) does say, "It is a defence to a charge ... that the defendant took reasonable measures to prevent the activity." In a way, to the extent that the private landlord would express the fact that he or she doesn't want the premises to be used for illegal purposes, that may be knowledge.

**The Chair (Mr. Shafiq Qaadri):** Mr. Romano, then Mr. Natyshak.

**Mr. Ross Romano:** That's the problem. You're putting the onus on what will become a defendant, and it's not on the defendant. The onus should be on the crown, ultimately. You're reversing an onus that, in law, doesn't exist. It's inappropriate, and it's unfair to landlords, because as Mr. Natyshak pointed out, in the vast majority of commercial tenancies—and, quite frankly, even in residential tenancies—you can't hold the landlord to the standard that they're going to have to know the minutiae of detail that's going on in every one.

Oftentimes, they won't be seeing—

*Interjection.*

**Mr. Ross Romano:** I'm speaking. Thank you.

They won't be seeing what's going on specifically in their leasehold premises for sometimes years on end. So I think it's an unfair burden to be placing on landlords, especially those in commercial arrangements that often are dealing with long-term rental agreements. Sometimes, you're dealing with an agreement that's 99 years in length. How do you possibly police this, then? How can you possibly put that onus on a landlord?

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.

**Mr. Taras Natyshak:** I would just like to remind members of the government and put things into context: The federal laws, as they are crafted, currently allow private individuals to grow up to three plants—

**M<sup>me</sup> Nathalie Des Rosiers:** Four.

**Mr. Taras Natyshak:** Four? Okay, four. So we can envision a scenario where that tenant will grow four plants and potentially sell a portion of it, which would be contrary to the law that Ontario is looking at, and then put the landlord in jeopardy and into liability. This is a real concern here.

Again, I do this for the sake of some unintended consequences. We think that this clarifies, right from outset, and gives the protection to the landlord—and to the provisions of the law—that they not knowingly enter into an agreement.

**The Chair (Mr. Shafiq Qaadri):** Further comments? Otherwise, we'll proceed to the vote. Those in favour of NDP motion 8? Those opposed? NDP motion 8 falls.

Shall schedule 1, section 13 carry? Carried.

We have not received any amendments for sections 14 to 22, inclusive. I will consider them en bloc. Shall schedule 1, sections 14 to 22, inclusive, carry? Carried.

We'll now move to schedule 1, section 23, which is schedule 1 to the bill.

The next four amendments in the package are all interdependent. Amendment 9 is linked to amendment 11, and amendment 10 is linked to amendment 12. Therefore, I would suggest that the committee consider amendments 11 and 12 first, and then go back and consider motions 9 and 10. Sounds good to me.

Mr. Natyshak?

**Mr. Taras Natyshak:** Before we do that, can I ask for a three-and-a-half-minute recess?

**The Chair (Mr. Shafiq Qaadri):** Done.

*The committee recessed from 0929 to 0934.*

**The Chair (Mr. Shafiq Qaadri):** Okay, colleagues, we are back. As mentioned, motions 9 and 10 would be welcome at this time.

*Interjections.*

**The Chair (Mr. Shafiq Qaadri):** We're now on NDP motion 11, which is schedule 1 to the bill, subsections 23(2) and (3), the Cannabis Act, 2017. Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsections 23(2) and (3) of schedule 1 to the bill be struck out.

**The Chair (Mr. Shafiq Qaadri):** Comments? Yes, Mr. Hillier.

**Mr. Randy Hillier:** Just to Taras: You've got four interdependent amendments here. Maybe if you could



just take a moment and briefly explain the entirety of what you're attempting to achieve with these amendments.

**Mr. Taras Natyshak:** Thanks to my colleague. I think we're looking for some parity with the treatment of cannabis as it relates to how we currently treat alcohol offences, so the penalties and the various schedules that exist would align with that of how we treat alcohol.

**The Chair (Mr. Shafiq Qaadri):** Further comments? Mr. Potts, then Mr. Hillier.

**Mr. Arthur Potts:** I would say that we had the prince of pot here bragging about how much money he was making selling in illegal stores. It is a lot more lucrative to be selling marijuana than it is to be selling hooch, wine and other products in a storefront that's illegal without licensing. I've seen stores in my own community that are bragging of \$10,000, \$15,000 or \$20,000 in revenue a day. We need very stiff penalties, or they just open the next day and they accept the fines as a cost of doing business. We just can't have that.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier?

**Mr. Randy Hillier:** No, thank you.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak?

**Mr. Taras Natyshak:** I appreciate the comments.

First of all, I would dispute the prince of pot's prowess on how much money he made in his individual shop. He said he was the best cannabis seller on the planet, and I would think that those in Amsterdam probably have had a better record of retail sales than he did.

Secondly, I don't think it's incumbent upon us to judge how much they've made from illicit sales. I don't think that's what the law tests. I think the law tests the action of illegal sales in that transaction, and whether they made five bucks on it or \$500,000 is sort of irrelevant.

We simply want to ensure that the punitive measures match those of other areas that we've identified, as a government, should be illegal in nature. That's it. We also don't want to overly penalize people for what will now be a legal substance, and we don't want to under-penalize those in comparison to how alcohol is treated.

If you read through the amendments—well, let's just go through them, and then you can vote on their merit, I guess, which is what ultimately we will do.

Amendment 11 has the effect of lowering the maximum penalty for illegal cannabis sales to the same penalty that currently exists for illegal liquor sales, which is still very high. Cannabis is about to become a legal product, just like liquor and tobacco, and it's reasonable that the penalty for illegal sales be similar.

The second—because they're all joined, I'll just simply point to the 12th amendment that we've proposed. This one increases the act's penalty for selling and distributing cannabis to minors to match the penalty that exists for selling alcohol to minors. We're just levelling the playing field here and levelling the punitive and monetary infractions.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier?

**Mr. Randy Hillier:** I will just comment on these amendments as a bulk. It does appear that the statute

provides for some really heavy penalties and also some fairly substantial minimum penalties. I would say too: We wouldn't want to base our statutes solely on the deputation of one individual who may or may not make lots of money on cannabis; I'm not sure. We have to take a broader look at all those who may be found in contravention of the act. Like I said, we see some significant minimum penalties as well; those cause me probably more concern than the maximums.

**0940**

I would just also say to the committee: If there is, indeed, somebody found guilty in the courts of contravention of any of these elements of the act, the crown still has further remedy. They have both the criminal forfeitures act—so if somebody has made a great deal of ill-gotten gains contravening this act, the crown has a number of different avenues to attach or attack those ill-gotten gains.

I think the penalties for cannabis probably ought to be more aligned with the penalties for alcohol. Again, we heard the Attorney General state unequivocally that this act was going to mirror and replicate and have the same conditions as alcohol. Now we see some very, very heavy penalties in here. Convictions of at least \$25,000 on the first offence, minimums of \$10,000—these are some pretty significant penalties that we're proposing on our road to legalizing cannabis.

**The Chair (Mr. Shafiq Qaadri):** Mr. Romano?

**Mr. Ross Romano:** I get the concern being raised by Mr. Potts. It's difficult, not for reasons cited by the prince of pot, but certainly in order to just limit black market sales, harsher penalties—there's certainly a correlation with respect to that.

My greatest concern is the mandatory minimum sentence. With the minimum sentence, I think the concern is that you're limited judicial discretion. If you've got a minimum of \$25,000 and a maximum of \$250,000, you're tying the hands of a judge—or a justice of the peace, ultimately—in imposing a fine that they think is fit in the circumstances.

If you're talking about someone who is showing, and the crown can prove that the sales have been substantial, and you know that the penalty should be elevated to reflect making an impact on that particular accused, then, certainly, something to the far right of the spectrum makes sense. But if you're talking about someone for whom even \$25,000 is a huge impact, you've limited their discretion. That's the concern. I believe, given it is provincial legislation, that the exemption provisions under section 59 of the Provincial Offences Act would still provide some ability for a justice of the peace to reduce the fine. My concern is the minimums. I think it's inappropriate to tie the hands of the trier of fact.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 11? If not, we'll proceed to the vote. Those in favour of NDP motion 11? Those opposed? NDP motion 11 falls.

NDP motion 12, which is schedule 1 to the bill, section 23, the Cannabis Act, 2017. Mr. Natyshak.



**Mr. Taras Natyshak:** I move that section 23 of schedule 1 to the bill be amended by adding the following subsection:

“Penalty: sale, distribution to persons under 19

“(3.1) Upon conviction for contravening section 7,

“(a) a corporation is liable to a fine of not more than \$500,000; and

“(b) an individual is liable to a fine of not more than \$200,000 or to imprisonment for a term of not more than one year, or both.”

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 12? Mr. Natyshak.

**Mr. Taras Natyshak:** This increases the act’s penalty for selling or distributing cannabis to minors to match the penalty that already exists for selling alcohol to minors. In our opinion, it makes no sense that there should be a lower penalty for selling cannabis to minors than for selling alcohol to minors.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts.

**Mr. Arthur Potts:** I appreciate very much the member opposite bringing this motion forward. I think that was definitely an oversight. We will be supporting this so that we align this penalty for selling to minors with those for alcohol sales.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on NDP motion 12? Seeing none, we’ll proceed to the vote.

Those in favour of NDP motion 12? Those opposed? NDP motion 12 carries.

We now proceed to consider NDP motion 9. I’d just advise you that it was supposed to be working in conjunction with 11, which fell.

**Mr. Taras Natyshak:** I withdraw that one.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 9 is withdrawn. We now proceed to NDP motion 10, which is for similar reasons completely—

**Mr. Taras Natyshak:** I believe it’s a housekeeping motion that was dependent on whether both 11 and 12 passed, so I withdraw that motion as well.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Natyshak.

Now we’ll proceed to PC motion 13, which is schedule 1 to the bill, subsection 23(5), the Cannabis Act, 2017. Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 23(5) of schedule 1 to the bill be amended by,

(a) striking out “\$1,000” and substituting “\$500” in clause (a); and

(b) striking out “\$5,000” and substituting “\$1,000” in clause (b).

**The Chair (Mr. Shafiq Qaadri):** Any comments on PC motion 13? Mr. Natyshak.

**Mr. Taras Natyshak:** For the sake of finding some parity and a level playing ground or a level measure of the punitive aspects of this bill as it relates to others that are similar: We see that the maximum penalty for a first offence for smoking tobacco in a prohibited place is already \$1,000. The question is, why would the maximum penalty for smoking cannabis be lower?

**The Chair (Mr. Shafiq Qaadri):** Further comments, PC motion 13? Mr. Hillier? No? If none, we’ll proceed to the vote. Those in favour of PC motion 13? Those opposed? PC motion falls.

Shall schedule 1, section 23, as amended, carry? Carried.

We’ll consider the next two sections en bloc. Shall schedule 1, sections 24 and 25, carry? Carried.

We’ll now proceed to schedule 1, section 26, which is schedule 1 to the bill, subsection 26(1), the Cannabis Act, 2017. NDP motion 14. Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsection 26(1) of schedule 1 to the bill be amended by adding “including the sharing of revenues” at the end.

**The Chair (Mr. Shafiq Qaadri):** Comments, NDP motion 14?

**Mr. Taras Natyshak:** Chair, it clarifies that agreements with indigenous band councils concerning the sale of cannabis can include the sharing of revenues, which is otherwise not mentioned in Bill 174.

**The Chair (Mr. Shafiq Qaadri):** Any further comments, NDP motion 14? We’ll proceed to the vote, then. Shall NDP motion 14 carry? All those in favour? Those opposed? NDP motion 14 falls.

Shall schedule 1, section 26 carry? Carried.

Now to PC motion 15, on a new schedule 1, section 26.1, the Cannabis Act, 2017: Mr. Hillier.

**Mr. Randy Hillier:** I move that schedule 1 to the bill be amended by adding the following section:

“Reporting of illness, disease, injury or death related to cannabis use

“26.1(1) If a physician or a practitioner is of the opinion that a person to whom the physician or practitioner is providing professional services has sustained an injury, suffers from an illness or disease or has died as a result of the use of cannabis, the physician or practitioner shall report the injury, illness, disease or death to the medical officer of health of the health unit in which the professional services are provided.

“Personal information to be de-identified

“(2) Information reported under subsection (1) shall be in a de-identified form.

“Report by medical officer of health

“(3) A medical officer of health who receives one or more reports of injury, illness, disease or death under subsection (1) shall make an annual report to the Minister of Health and Long-Term Care and to the Ontario cannabis retailer that includes a summary of the reports received.”

0950

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 15? Mr. Hillier?

**Mr. Randy Hillier:** One of the things that we believe the statute is weak on is reporting, monitoring and education of how the legalized recreational use of cannabis is going to—what impacts it’s going to have. The statute is absent any mandate or any statutory responsibilities of government to monitor and track what changes are happening.



This motion, I think, is fairly clear that it would permit some way for us to document and track if there are changes and consequences as a result of legalized recreational cannabis use—that if there are injuries, illness or disease as it relates to cannabis use, we have some mechanism to track it and report back to the House.

**The Chair (Mr. Shafiq Qaadri):** PC motion 15: Mr. Potts.

**Mr. Arthur Potts:** I appreciate the intent of public health protection, but this would be a very novel thing for us to be doing with respect to cannabis.

The items that are currently under the Health Protection and Promotion Act tend to be things like communicable diseases, things that will affect populations at large. The list doesn't include things like abuse of substances related to alcohol, tobacco, street drugs etc. So I don't know why we would add cannabis to that one without dealing with all those others and any other kinds of health impacts—even bad responses to food that has gone off.

We'll be voting against it. We have lots of work we're doing on public education and communication that will allow us to better understand the impacts going down the road.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier?

**Mr. Randy Hillier:** As much as we want to mirror many of the requirements with alcohol, we also know that we're moving into some unknown and uncharted territories with recreational cannabis.

We also know that there is a substantial amount of evidence out there that cannabis use in youths can have significant consequences. Schizophrenia is one that we're all aware of. There appear to be elevated numbers of schizophrenia, with substantial or prolonged cannabis use, in a developing mind.

I will say that if we don't have a requirement, if government doesn't take on the requirement to monitor this, then it won't. This places the requirement on government to keep an eye out on society as we change these laws.

Going back to Mr. Potts's comments, maybe alcohol consumption and stuff should have been looked at, and alcoholism should have been looked at. Maybe we would have less of a public health impact. We should be basing our new legislation on our experiences and our evidence.

Like I said, we are moving into some uncharted territories. I think that here is a good place where we can exercise the precautionary principle and make sure that government recognizes that it has a responsibility to track and monitor unintended consequences with regard to health.

**The Chair (Mr. Shafiq Qaadri):** Further comments?

**M<sup>me</sup> Nathalie Des Rosiers:** I think everyone agrees that we are in uncharted territory and that the health outcomes have to be measured. We know that Health Canada, for example, will provide and is working on a framework to understand well how to identify risk factors and where indeed the type of research will be necessary.

I think the problem here with imposing a reporting requirement on doctors as opposed to having a larger

framework for analysis of the impact is that it does impose on the doctor to make a judgment as to whether it's caused by cannabis use or not. It may not be sufficient, or it might be over-reporting or under-reporting. So I think the framework would be better based on the health framework that Health Canada is working on, that maybe public health is working on. We will vote against, not for the idea that the government should continue to monitor this, but I don't think that this is the mechanism that will be the most useful.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier.

**Mr. Randy Hillier:** Listen, I understand the broader framework of a roll-up of data to make the analysis, but a roll-up of data has to start at the very basic. If that information is not available, if physicians and practitioners have no obligation, no requirement or no mechanism to report, then there can't be a roll-up of data at the federal level.

I don't think we're far off here. I accept that the federal government has stated they're going to be doing a lot of that work. But if our provinces don't create a mechanism to collect that data—I'll just share with the committee: Later on in the amendments package, you'll see some significant amendments by the PC Party. In essence, we're plagiarizing the New Brunswick Legislature and a number of other provincial Legislatures that have recognized the provincial role in education, monitoring and awareness. I think it is very incumbent on and very responsible for us at the provincial level to make sure that when the feds go looking for data, they have some data to review, if we're not going to do the review or the analysis ourselves.

I'll leave it at that.

**The Chair (Mr. Shafiq Qaadri):** PC motion 15: Comments? If not, we'll proceed to the vote. Those in favour of the PC motion 15? Those opposed? PC motion 15 falls.

We now proceed to the next section, for which we have not received amendment. Shall schedule 1, section 27 carry? Carried.

We now proceed to a new item, section 27.1, schedule 1 to the bill, section 27.1, the Cannabis Act. PC motion 16: Mr. Hillier.

**Mr. Randy Hillier:** I move that schedule 1 to the bill be amended by adding the following section:

"Review of act

"27.1 The minister shall conduct and table a review of this act within four years after the day this act receives royal assent."

**The Chair (Mr. Shafiq Qaadri):** Comments? Mr. Hillier.

**Mr. Randy Hillier:** We will see an NDP motion that also puts in an obligation for review. The NDP motion is far more prescriptive; the PC motion is very broad and provides a lot of latitude as to what components will be reviewed.

I understand that we often have this view that we have more prescribed features of an amendment or more prescribed features of a piece of legislation, and we think



that it's better; but I'm of the view that we need to permit the minister and permit the government of the day to look at whatever aspects of this bill are important and not limit them in any way.

I think it should be intuitive and without further need for justification that when we move into these uncharted territories, we do put a responsibility upon ourselves to review our actions and examine how our legislation has met with our purposes and our objectives, and be forthright and forthcoming with the public if there are shortcomings or unintended consequences that ought to be addressed.

1000

**The Chair (Mr. Shafiq Qaadri):** Comments on PC motion 16? Mr. Potts.

**Mr. Arthur Potts:** I see no reason to tie the hands of a future government, so we'll be voting against this.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier.

**Mr. Randy Hillier:** I find the phrase that Mr. Potts used quite disturbing—tying the government's hands. We're giving them the statutory tools to do something, not to prevent them from doing something.

Maybe the concept of a legislative or ministerial review is not clear. This is not tying the hands but providing government with an obligation to the public to review and comment on these significant changes that society is undergoing.

**The Chair (Mr. Shafiq Qaadri):** Comments on PC motion 16, if any? If none, we'll proceed to the vote. Those in favour of PC motion 16? Those opposed? PC motion 16 falls.

Schedule 1 to the bill, section 27.1, the Cannabis Act, 2017, NDP motion 17: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that schedule 1 to the bill be amended by adding the following section:

"Review of act

"27.1(1) The minister shall complete a review of this act within three years of the day it comes into force and within every five years thereafter.

"Review considerations

"(2) In reviewing this act, the minister shall consider,

"(a) the effectiveness, appropriateness and fairness of the act's prohibitions, enforcement and sanctions, and education and prevention programs, with particular regard to,

"(i) the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability,

"(ii) the application of the Human Rights Code to this act,

"(iii) any changes in public attitudes towards the recreational use of cannabis, and

"(iv) the application of this act with respect to the aboriginal and treaty rights of indigenous peoples;

"(b) the impact of this act on youth;

"(c) policies governing edible cannabis products;

"(d) scientific evidence with respect to the health impacts of cannabis consumption; and

"(e) any other matters the minister considers advisable.

"Tabling of report

"(3) The minister shall, within six months after completing the review, table a report in the assembly containing,

"(a) an assessment of the minister's considerations listed in clauses (2)(a), (b), (c) and (e);

"(b) a summary of the scientific evidence referred to in clause (2)(d);

"(c) any recommendations from the minister regarding changes to legislation or policies, including policies governing edible cannabis products; and

"(d) any other matters the minister considers advisable.

"Publication after report

"(4) After tabling the report in the assembly, the minister shall publish it on a government of Ontario website."

**The Chair (Mr. Shafiq Qaadri):** Can you just read the very last thing once more, please? The "publication of report" part?

**Mr. Taras Natyshak:** Pardon me.

"Publication of report

"(4) After tabling the report in the assembly, the minister shall publish it on a government of Ontario website."

**The Chair (Mr. Shafiq Qaadri):** Thank you. Comments on NDP motion 17? Any further comments? If not, we'll proceed to the vote. Those in favour of NDP motion 17? Those opposed? NDP motion 17 falls.

We've not received any amendments to sections 28 to 34 of schedule 1, so I'll consider them en bloc. Shall schedule 1, sections 28 to 34, inclusive, carry? Carried.

Shall the title to schedule 1 carry? Carried.

Shall schedule 1, as amended, carry? Carried.

We're now proceeding to schedule 2. Shall section 1 of schedule 2 carry? Carried.

We will now proceed to new items: schedule 2 to the bill, section 1.1, the Ontario Cannabis Retail Corporation Act, 2017. NDP motion 18: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that schedule 2 to the bill be amended by adding the following section:

"Interpretation, aboriginal and treaty rights

"1.1 Nothing in this act shall be interpreted as abrogating the existing aboriginal and treaty rights of the aboriginal peoples of Canada."

**The Chair (Mr. Shafiq Qaadri):** Comments on NDP motion 18? Seeing none, I'll proceed to the vote. Those in favour of NDP motion 18? Those opposed? NDP motion 18 falls.

I have not received any amendment to the next section, section 2. Shall schedule 2, section 2 carry? Carried.

We'll now proceed to the next one: schedule 2, subsection 3(1), the Ontario Cannabis Retail Corporation Act, 2017. To the government side: Mr. Potts. Government motion 19.

**Mr. Arthur Potts:** I move that subsection 3(1) of schedule 2 to the bill be amended by striking out “On the day at least three directors are appointed under section 9” at the beginning.

**The Chair (Mr. Shafiq Qaadri):** Comments? Mr. Hillier?

**Mr. Randy Hillier:** Can you explain the purpose and how this will roll out? I don’t understand how you can actually create the memorandum of understanding, create the corporation and do all the other things if you don’t have any directors.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts.

**Mr. Arthur Potts:** By removing the requirement that you have the directors in place it means that you can have the corporation in place as of the date of royal assent, and then we will apply the directors after it. You don’t have to have all the directors in order to have the agency established. It just establishes the agency in the absence of directors, but directors will be coming on board shortly thereafter.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier.

**Mr. Randy Hillier:** You’re suggesting that everything can be created and not have any individual, any natural person, actually—I would love to hear what you have to say on this.

**M<sup>me</sup> Nathalie Des Rosiers:** The corporation exists by the fact that the act has been implemented. Obviously, you will need to appoint directors. The question is whether you make that condition in the legislation. We have a July 1 deadline. Suppose that you elect one or two persons and you haven’t reached the third person by the deadline. It’s more a question of ensuring legally that the entity exists once the act is passed. The fact that you are appointing directors to it comes by necessity. So I think this is really a bit technical, to ensure that we meet the deadline and provide that, if it takes a bit longer to appoint the right person, the entire structure doesn’t fall apart. In my view, that’s the reason for it. It’s just to safeguard the possibility that one person may not be able to join at the right time and so on. It gives a little bit more flexibility. Legally, the structure exists because the way the act has been—

**Mr. Randy Hillier:** Okay, so the structure would exist. The corporation would exist. How does that corporation actually do anything, like enter into the memorandum of understanding, without any directors? Reading this the way it is, there is no need for—I guess the minister will, in effect, be the corporation until that day that directors are determined.

**M<sup>me</sup> Nathalie Des Rosiers:** Yes. It’s a chicken-and-egg issue. You have the corporation and then you have the directors who animate the corporation, but the important thing is that the corporation exists as of the day of the royal assent. I think that’s the intent of this provision.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on government motion 19? Seeing none, we’ll proceed to the vote. Those in favour of government motion 19? Those opposed? Government motion 19 carries.

Shall schedule 2, section 3, as amended, carry? Carried.

**1010**

We have not received any motions of amendments so far for schedule 2, sections 4 to 9, inclusive, so I’ll consider them en bloc. Shall schedule 2, sections 4 to 9, inclusive, carry? Carried.

Schedule 2 to the bill, subsection 10(2), the Ontario Cannabis Retail Corporation Act, 2017, PC motion 20: Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 10(2) of schedule 2 to the bill be struck out and the following substituted:

“Compliance

“(2) The corporation shall comply with the memorandum of understanding and if it fails to do so,

“(a) the corporation shall provide a written explanation of the failure to comply to the minister;

“(b) the minister shall table the written explanation in the Legislative Assembly; and

“(c) the corporation shall make the written explanation available to the public by posting it on the corporation’s website and by any other manner as the corporation considers appropriate.”

**The Chair (Mr. Shafiq Qaadri):** PC motion number 20—any comments? Mr. Hillier.

**Mr. Randy Hillier:** For some rationale on this and some further explanation—we all remember another corporation that was created by statute, Ornge, and its memorandum of understanding with the provincial Ministry of Health and Long-Term Care, and the fiasco that developed, without proper safeguards in place. Indeed, the province came back and amended the statute regulating and creating Ornge as a result of that fiasco.

This amendment follows suit with that and provides those checks and balances first, in case we have a rogue cannabis retail corporation that goes out and buys orange Harley-Davidsons and numerous other things on the public dime.

I think it’s in keeping with a commitment to accountability and in keeping with a commitment to transparency so that if there are any failures on behalf of the corporation, there are adequate means for the government’s hands not to be tied to act upon those.

As we remember quite clearly, during the debates during the Ornge fiasco, we heard from the Minister of Health that their hands were tied and they couldn’t investigate as deeply into Ornge, or change the inappropriate and fraudulent behaviour at Ornge, because the statute was silent on it.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts?

**Mr. Arthur Potts:** We, of course, exist in a different legislative regime now than we did in the days of Ornge’s incorporation. Ornge provided some very good lessons to all of us on accountability and transparency. Hence, since I’ve been elected, we passed the new accountability and transparency act, which this organization would be subject and accountable to, and it’s particularly



accountable directly to the Minister of Finance and others.

So I've think we've closed that door. We'll have the checks and balances in place to make sure this is an open, public organization. The accountability and transparency will be there, as per statutes that we've already passed in this House.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier?

**Mr. Randy Hillier:** Really, the act doesn't provide for transparency and accountability, and I'll just refer the member's attention to clause (b): "the minister shall table the written explanation in the Legislative Assembly."

Accountability that is only behind closed doors is not accountability. This amendment ensures the actual accountability by shining the light of public knowledge and public awareness. Indeed, the true meaning of accountability is widespread and dispersed knowledge, not just behind-closed-doors agreements or discussions between who now may be the minister himself—with no need to have three directors at the creation of the corporation.

Listen, I know that you're expecting things to roll out in a certain fashion. We all must base our decisions on expectations and we always hope that things go according to plan. But I think everybody around this table and everybody in this Legislature knows that seldom does something go forward without some hiccups, and—

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier, with apologies: The committee will reconvene at 2 p.m. Subcommittee is now in session, for which we need Mr. Potts, Mr. Natyshak and Mr. McDonell. We're in recess now.

*The committee recessed from 1015 to 1403.*

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. Justice policy reconvenes. As you know, we are here for clause-by-clause consideration of the Cannabis Act.

I understand I have a point of order. Mr. Potts, point of order?

**Mr. Arthur Potts:** Yes, thank you, Chair. During our discussion of motion 19—I wanted to correct the record: The effect of the motion is to clarify the date on which the corporation begins to exist, but it will not be functional until a board of directors is appointed. No one will be able to act for the corporation until that date.

**The Chair (Mr. Shafiq Qaadri):** Thank you. And that is a correction of your record?

**Mr. Arthur Potts:** Actually, it's a correction of—

**Mrs. Amrit Mangat:** Motion 19.

**Mr. Arthur Potts:** Motion 19—the general discussion of the government on that.

**The Chair (Mr. Shafiq Qaadri):** All right. Fair enough. Thank you, Mr. Potts. Members are obviously always welcome to correct their record.

I believe we were at the tail end of discussion of PC motion 20. Just for continuity's sake, I'll open it up again. Are there any further comments with reference to PC motion 20? Mr. Natyshak.

**Mr. Taras Natyshak:** Chair, correct me if I'm wrong, but I thought we already did PC motion 20. Maybe I'm wrong.

**The Chair (Mr. Shafiq Qaadri):** I think the vote still had to happen, Mr. Natyshak.

PC motion 20 is still open on the floor, available for questions. Mr. Romano, did you have anything to say?

**Mr. Ross Romano:** I don't have anything to add.

**The Chair (Mr. Shafiq Qaadri):** If not, we'll proceed to the vote. Those in favour of PC motion 20? Those opposed? PC motion 20 falls.

Shall schedule 2, section 10 carry? Carried.

We have 11 to 14, inclusive—no amendments received, so consider them en bloc. Shall schedule 2, sections 11 to 14, inclusive, carry? Carried.

Now proceeding to schedule 2, subsections 15(2) and (3), the Ontario Cannabis Retail Corporation Act, 2017, government motion 21: Mr. Potts.

**Mr. Arthur Potts:** I move that subsections 15(2) and (3) of schedule 2 to the bill be struck out and the following substituted:

"Personal information

"(2) The corporation shall take reasonable measures to ensure that any personal information it collects and maintains in connection with its activities is not collected, used or disclosed by the LCBO except for the purpose of providing services under an agreement described in subsection (1) or as otherwise authorized by law.

"Same, information technology services

"(3) If an agreement described in subsection (1) relates to information technology services or the storing of information collected and maintained by the corporation, the corporation shall take reasonable measures to ensure that any of its information that includes personal information is maintained separately from any other information maintained by the LCBO.

"Limitation re personal information

"(3.1) The corporation shall not, under an agreement described in subsection (1), give the LCBO access to personal information it collects and maintains unless such access is reasonably necessary for the LCBO to provide services under the agreement."

**The Chair (Mr. Shafiq Qaadri):** Comments on government motion 21?

**Mr. Arthur Potts:** Yes. Let me just say that we heard from the Information and Privacy Commissioner. He wanted this clarified, so we're taking his advice and putting it in here.

**The Chair (Mr. Shafiq Qaadri):** Comments? It not, we'll proceed to the vote. Those in favour of government motion 21? Those opposed? Government motion 21 carries.

Shall schedule 2, section 15, as amended, carry? Carried.

Shall schedule 2, section 16 carry? Carried.

To new item, schedule 2 to the bill, section 16.1, the Ontario Cannabis Retail Corporation Act, 2017, PC motion 22: Mr. Romano.

**Mr. Ross Romano:** The motion is just asking that if a municipality has expressed consent for a cannabis retail outlet in their jurisdiction—



**The Chair (Mr. Shafiq Qaadri):** Mr. Romano, you need to read the thing before the comments.

**Mr. Ross Romano:** My apologies.

**The Chair (Mr. Shafiq Qaadri):** PC motion 22. Do you need a copy?

**Mr. Ross Romano:** You don't need the preamble at the outset?

**The Chair (Mr. Shafiq Qaadri):** Just the "I move."

**Mr. Ross Romano:** I move that schedule 2 to the bill be amended by adding the following section:

"Agreement with agents required

"16.1(1) The corporation shall enter into an agreement with a person or entity under which the person or entity may possess and sell cannabis and related products as an agent of the corporation in the following circumstances:

"1. If the corporation fails to meet the demand for cannabis in a service area.

"2. If a lower or upper-tier municipality has requested that the corporation sell cannabis in the municipality and, one year after the request is made, the corporation is not selling cannabis in the municipality or within 50 kilometres of the municipality.

"Same

"(2) If the corporation has entered into an agreement described in subsection (1), the agent may possess and sell cannabis and related products on behalf of the corporation, subject to such limitations, conditions and requirements as may be prescribed."

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Romano. Comments are welcomed. You have the floor.

**Mr. Ross Romano:** I can probably leave it at that on the subject of any concerns. I think I'll just leave it as is.

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 22? Mr. Potts.

**Mr. Lorenzo Berardinetti:** Pardon—

**The Chair (Mr. Shafiq Qaadri):** Mr. Berardinetti, are you the one who is speaking?

**Mr. Arthur Potts:** Did you want to speak?

**Mr. Lorenzo Berardinetti:** No. It's okay.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts.

**Mr. Arthur Potts:** We'll be voting against this motion. The LCBO has a long history and tradition of retailing alcohol under the same provisions we're providing here without needing to tie their hands with this kind of a restriction, so we'll vote against it.

1410

**The Chair (Mr. Shafiq Qaadri):** If there are no further comments, we'll proceed to the vote. Those in favour of PC motion 22? Those opposed? PC motion 22 falls.

We'll proceed to consider sections 17 and 18 of schedule 2 en bloc. Shall they carry? Carried.

We'll go to schedule 2 to the bill, section 19, the Ontario Cannabis Retail Corporation Act, PC motion 23—sorry, just a moment. We'll have you do PC motion 24 first, and here's why: Section 19 of schedule 2, amendment 23, makes reference to section 19.1 of the bill, which is created in amendment 24. The committee recommends that we stand down consideration of section 19 of schedule 2 in order to first consider amendment 24,

which seeks to create a new section, 19.1, in the Ontario Cannabis Retail Corporation Act, 2017.

I take it that it will be the will of the committee to do so as it will be logically coherent? Yes. PC motion 24: Mr. Romano.

**Mr. Ross Romano:** I move that schedule 2 to the bill be amended by adding the following section:

"Cannabis Education and Awareness Fund

"19.1(1) A fund is established under the name Cannabis Education and Awareness Fund in English and Fonds d'éducation et de sensibilisation en matière de cannabis in French.

"Custodian of fund

"(2) The minister shall be the custodian of the fund.

"Use of fund assets

"(3) The assets of the fund may be used for the following purposes:

"1. To fund education and awareness programs relating to cannabis, including programs concerning the prevention of cannabis abuse, the responsible use of cannabis and strategies for the reduction of the adverse health effects of cannabis.

"2. To develop and implement policies and programs relating to the responsible consumption of cannabis and reduction of its adverse health effects and the promotion of corporate social responsibility in the distribution and sale of cannabis.

"3. To fund research projects on cannabis and its consumption.

"4. To reimburse costs of initiatives undertaken by any individual or organization, or any department, corporation or agency of the government of Ontario, that are related to the purposes set out in paragraphs 1, 2 and 3.

"Payments

"(4) The minister may make payments out of the fund for the purposes set out in subsection (3).

"Same, limit

"(5) Payments out of the fund shall not exceed an amount that represents the contributions made to the fund and accumulated interest."

**The Chair (Mr. Shafiq Qaadri):** Comments on PC motion 24?

**Mr. Ross Romano:** I think it speaks for itself. It's to raise education and awareness. We heard in the days here a great deal about the necessity of creating education and ensuring that funds derived from the proceeds of sales ought to be dedicated towards that. We heard some references to that being covered by regulations; however, the statute ought to clarify and ensure that some of those funds are being directed to pay for various education and awareness programs.

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 24? Mr. Potts.

**Mr. Arthur Potts:** Can I get a clarification as to why this isn't out of order as a money motion? It seems to be directing money to a fund and then expending funds.

**Mr. Randy Hillier:** Because it's a new act.

**Mr. Arthur Potts:** You're a good lawyer. I'm impressed.



**Mr. Randy Hillier:** You would be right if we were amending an act.

**Mr. Arthur Potts:** You've been around a lot longer than I have.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier is to the point. It's because it is a new act, a new attempt to create a money pool, as opposed to taking it from previously existing stuff.

**Mr. Arthur Potts:** Fair enough. I will continue to say that while the objective is very noble in education and awareness—and I think we all believe that this is going to be very important moving forward—I think we should wait until we've done the outreach with public health units to find out the extent and what we want to do, and not simply create a fund that ties our hands as to how and what amounts—we may want to spend more than we're collecting in order to ensure a healthy society. We will be voting against this.

**The Chair (Mr. Shafiq Qaadri):** Further comments? Mr. Hillier.

**Mr. Randy Hillier:** I'm very disappointed that you want to proceed down a path without putting any responsibility on behalf of the government to uphold the interests, the safety and the health of the public.

If I heard you correctly, you said, "This is noble and good and everything, but we'll proceed anyway and we'll see what happens." Well, that's a very reactive approach and it's not indicative of good or thoughtful planning. If we look at other provinces—this is, again, plagiarized from what other provinces are doing—they're recognizing that there is an obligation on behalf of government to protect the public interest and that education is or ought to be foremost. It has to be a priority. It can't be a priority if it's absent from the statute.

Not supporting an education and awareness fund for recreational cannabis use is wholly irresponsible, in my view—totally irresponsible. In effect, what you're saying is, "We'll wait for problems to happen before we do anything"—a rejection by the government of any need to provide education not just to cannabis users, but also to parents, educators and all of society.

It's wholly irresponsible to abrogate or abdicate the responsibilities of government.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Hillier. I'm sure you mean "benefit from the fruits of research of other Legislatures" as opposed to "plagiarize." But in any case, Mr. Potts, or any response anywhere on PC motion 24?

**Mr. Arthur Potts:** No.

**The Chair (Mr. Shafiq Qaadri):** If not, we'll proceed to the vote.

**Mr. Randy Hillier:** Recorded vote.

**Ayes**

Hillier, Natyshak, Romano.

**Nays**

Berardinetti, Dhillon, Mangat, Potts, Rinaldi.

**The Chair (Mr. Shafiq Qaadri):** PC motion 24 falls.

We're back to considering PC motion 23, which is now officially out of order.

We'll move to schedule 2, section 19 of the bill, the Ontario Cannabis Retail Corporation Act, PC motion 23.

**Mr. Ross Romano:** I move that section 19 of schedule 2 to the bill be struck out and the following substituted:

"Payments of net profits

"19. At such times and in such manner as the Lieutenant Governor in Council may direct, the corporation's net profits shall be determined and paid,

"(a) into the Consolidated Revenue Fund; and

"(b) into the Cannabis Education and Awareness Fund established under section 19.1."

**The Chair (Mr. Shafiq Qaadri):** Mr. Romano, with extreme regret, I inform you that that amendment is out of order, as it is attempting to refer to a section that doesn't actually exist by virtue of motion 24 falling. That is officially now out of order.

We'll then return to schedule 2 and the remaining—

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Shall schedule 2, section 19, carry? Carried.

1420

We'll now consider schedule 2, sections 20 to 24. They are to be considered en bloc, as we have not received any amendments to date. Shall schedule 2, sections 20 to 24, inclusive, carry? Carried.

We will now proceed to schedule 2 to the bill, subsection 25(2), the Cannabis Retail Corporation Act, PC motion 25. Mr. Hillier or Mr. Romano, as you like.

**Mr. Randy Hillier:** I believe that will be out of order, will it not, because of a prior—

**The Chair (Mr. Shafiq Qaadri):** I believe your belief is correct, yes. You have the chance to withdraw it, then.

**Mr. Randy Hillier:** Yes.

**The Chair (Mr. Shafiq Qaadri):** Fine. Thank you, Mr. Hillier.

Therefore, shall schedule 2, section 25 carry? Carried.

The next two sections are also unamended, having not received any amendments. Therefore, shall schedule 2, sections 26 and 27 carry? Carried.

Now to the next new section, which is schedule 2 to the bill, section 27.1, the Ontario Cannabis Retail Corporation Act, 2017. PC motion 26: Mr. Hillier.

**Mr. Randy Hillier:** I move that schedule 2 to the bill be amended by adding the following section:

"Review of act

"27.1 The minister shall conduct and table a review of this act within four years after the day this act receives royal assent."

**The Chair (Mr. Shafiq Qaadri):** The floor is open for comments. Mr. Hillier?

**Mr. Randy Hillier:** I don't think there's any need for me to repeat the arguments that were rejected by the government in schedule 1. I believe those arguments are just as compelling for schedule 2 as they are for schedule



1, and a review of our actions and new legislation ought to be intuitive by all members. I'll leave it at that.

**The Chair (Mr. Shafiq Qaadri):** Comments on PC motion 26? Mr. Potts.

**Mr. Arthur Potts:** I do have some further enlightenment for the members opposite: Under the mandates of crown agencies, they're all reviewed after seven years, so you will automatically get a review, because this does create a crown agency. It's not four years, but it will be seven years. You'll have a goodly look at it.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier?

**Mr. Randy Hillier:** I'll have a recorded vote.

### Ayes

Hillier, Natyshak, Romano.

### Nays

Berardinetti, Dhillon, Mangat, Potts, Rinaldi.

**The Chair (Mr. Shafiq Qaadri):** PC motion number 26 falls.

We'll now proceed to the next motion, which is schedule 2 to the bill, subsection 28(2), the Ontario Cannabis Retail Corporation Act, 2017. NDP motion 27: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsection 28(2) of schedule 2 to the bill be amended by adding "which may provide for the sharing of revenues" at the end.

**The Chair (Mr. Shafiq Qaadri):** Comments on NDP motion 27? Seeing none, I'll proceed to the vote. Those in favour of NDP motion 27? Those opposed? NDP 27 falls.

Shall schedule 2, section 28 carry? Carried.

I will consider the next two en bloc as well: Schedule 2, sections 29 and 30. Shall they carry? Carried.

We will now proceed to the next section, which is schedule 2 to the bill, subsection 31(4), the Ontario Cannabis Retail Corporation Act, 2017. Government motion 28: Mr. Potts.

**Mr. Arthur Potts:** I move that subsections 4.0.2.1(2) and (3) of the Liquor Control Act, as set out in subsection 31(4) of schedule 2 to the bill, be struck out and the following substituted:

"Personal information

"(2) The board shall take reasonable measures to ensure that any personal information that the Ontario cannabis retailer collects and maintains in connection with the activities of that corporation is not collected, used or disclosed by the board except for the purpose of providing services under an agreement described in subsection (1) or as otherwise authorized by law.

"Same, information technology services

"(3) If an agreement described in subsection (1) relates to information technology services or the storing of information belonging to the Ontario cannabis retailer, the board shall take reasonable measures to ensure that any of the Ontario cannabis retailer's information that

includes personal information is maintained separately from any other information maintained by the board."

**The Chair (Mr. Shafiq Qaadri):** Further comments on government motion 28? Mr. Hillier.

**Mr. Randy Hillier:** I'm just surprised we just don't leave everything to regulations, and there's no need to move any amendments at all by this government. That's all of my comments.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on government motion 28? If not, I'll proceed to the vote. Those in favour of government motion 28? Those opposed? Government motion 28 carries.

Shall schedule 2, section 31, as amended, carry? Carried.

I'll consider the next two en bloc as there are no amendments so far received. Shall schedule 2, sections 32 and 33 carry? Carried.

Shall the title of schedule 2 carry? Carried.

Shall schedule 2, as amended, carry? Carried.

Colleagues, we'll now move to schedule 3 to the bill, subsection 1(1), "electronic cigarette," the Smoke-Free Ontario Act, 2017. NDP motion 29: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that the definition of "electronic cigarette" in subsection 1(1) of schedule 3 to the bill be amended by striking out "inhaled by the user of the device directly through the mouth" and substituting "inhaled by the user of the device directly through the mouth or nose".

**The Chair (Mr. Shafiq Qaadri):** Comments on motion 29? Mr. Natyshak.

**Mr. Taras Natyshak:** Chair, the amendment narrows the definition of "electronic cigarette" as per the recommendation of the Heart and Stroke Foundation. They pointed out that the current definition captured several medically necessary devices, such as vaporizers for people with respiratory conditions.

**The Chair (Mr. Shafiq Qaadri):** Any comments on NDP motion 29? Mr. Potts.

**Mr. Arthur Potts:** We're satisfied that the current definition covers nose and mouth inhalation. Therefore, we will vote against this.

**The Chair (Mr. Shafiq Qaadri):** Comments? Mr. Hillier.

**Mr. Randy Hillier:** I've never seen anyone try using one through the nose, so I'm going to pass on this one.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts?

**Mr. Arthur Potts:** Just further to that, I have seen the party trick where you do it through your ear.

**The Chair (Mr. Shafiq Qaadri):** I thank you for the continued enlightenment, Mr. Potts.

We'll now proceed to the vote.. Those in favour of NDP motion 29? Those in favour, if any, of NDP motion 29? Those opposed? NDP motion 29 falls.

Shall schedule 3, section 1 carry? Carried.

We'll proceed now to the next section, schedule 3 to the bill, clause (2)(b), the Smoke-Free Ontario Act, 2017. NDP motion 30: Mr. Natyshak?

**Mr. Taras Natyshak:** Chair, we would like to stand down this motion.



**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Natyshak. NDP motion 30 is withdrawn—  
*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** —stood down, sorry, meaning deferred.

**Mr. Taras Natyshak:** Deferred.

**Mr. Lorenzo Berardinetti:** Until when?

**The Chair (Mr. Shafiq Qaadri):** To when?

**Mr. Taras Natyshak:** Until kind of right at the end, once all the amendments for schedule 3 are considered.

**Mr. Arthur Potts:** Do we need a UC for that?

**The Chair (Mr. Shafiq Qaadri):** All right, just a moment. Fine. It's stood down, deferred, until after NDP motion 47.

Therefore, we shall move now to the next section, for which we have not received any amendments so far, which is schedule 3, section 3. Shall schedule 3, section 3 carry? Carried.

We will now proceed to the next section, which is schedule 3, section 4, the Smoke-Free Ontario Act, 2017. PC motion 31: Mr. Hillier.

**Mr. Randy Hillier:** I move that section 4 of schedule 3 to the bill be amended by adding the following subsections:

“Exceptions, vapour products

“(2.1) Despite subsection (2), a person may promote vapour products in accordance with the following rules:

“1. A person may promote vapour products if,

“i. the promotion is only in respect of vapour products being sold or offered for sale at the place,

“ii. the windows of the place in which the vapour products are sold or offered for sale are obscured.

“2. A person may post one or more signs providing information about vapour products and their price in a place in which vapour products are sold or offered for sale if the windows of the place are obscured.

“Same, obscured windows

“(2.2) For the purposes of subsection (2.1), the windows of a place are obscured if they are permanently frosted or otherwise maintained in a manner that makes the interior of the place not visible from the outside.”

1430

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 31?

**Mr. Randy Hillier:** I might just add that that's in keeping with what we heard substantially during the deputations. We've also heard strong indications from the government that they want to deal with this in regulations, that they're going to permit this in regulations. I think it's important that we have it in the bill: places where it's restricted in age to 19, where windows are obscured, where people may be able to promote and talk about smoking cessation devices such as e-cigarettes.

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 31? Mr. Potts.

**Mr. Arthur Potts:** Yes, I appreciate the member's comments. I don't want to prejudice the negotiations of the Ontario and Canadian vaping associations or having the ministry—he's setting it up here in this amendment

that all of the windows be darkened out. It'd be like a denizen of inequity—or iniquity, is the word I think I'm looking for. A denizen—

**The Chair (Mr. Shafiq Qaadri):** A den.

**Mr. Randy Hillier:** A den. You're the denizen.

**Mr. Arthur Potts:** That's it; a den of iniquity.

It may be that negotiations have a different outcome. We're going to address these issues in regulation. I know the vaping association is very comfortable with that approach, so we'll be voting against this.

**The Chair (Mr. Shafiq Qaadri):** PC motion 31: Any comments? Mr. Hillier.

**Mr. Randy Hillier:** Again, the only thing that's being prejudicial is when the government is saying in legislation that all these actions and activities are prohibited and not permissible, and then at the same time saying that we are going to allow them through our negotiations in the back doors, unseen from the public view. I think that is a prejudicial action, when you're stating in the legislation one thing and at the same time saying that you're not going to do it but you're already voting in favour of doing it.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts?

**Mr. Arthur Potts:** I just want to add: I think the member could take a closer reading of the bill respecting vaping and, for instance, the flavours of vaping. All flavours are acceptable under this act, except as provided in regulations. It's wide open until we regulate them. So I'm not sure that he's really reading the bill as closely as he should.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier?

**Mr. Randy Hillier:** This amendment has nothing to do with flavours.

**Mr. Arthur Potts:** I'm just saying, it reflects all things vaping.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on PC motion 31?

**Mr. Randy Hillier:** Recorded vote.

**The Chair (Mr. Shafiq Qaadri):** Recorded vote.

**Ayes**

Hillier, Romano.

**Nays**

Berardinetti, Dhillon, Mangat, Potts, Rinaldi.

**The Chair (Mr. Shafiq Qaadri):** I think the PC motion falls there.

Therefore, shall schedule 3, section 4 carry? Carried.

Shall section 5 of schedule 3 carry? Carried.

We'll now proceed to the next section, which is schedule 3 to the bill, section 5.1, the Smoke-Free Ontario Act. NDP motion 32. Mr. Natyshak.

**Mr. Taras Natyshak:** I move that schedule 3 to the bill be amended by adding the following section:

“Promotion



“5.1 In addition to the requirements set out in sections 4 and 5, any promotion of a tobacco product, tobacco product accessory, vapour product or prescribed product or substance must comply with the requirements set out in the regulations, if any.”

**The Chair (Mr. Shafiq Qaadri):** Comments on NDP motion 32? Mr. Natyshak.

**Mr. Taras Natyshak:** Chair, the amendment is more of a straightforward way to address what the previous PC amendment was attempting to do. It's a flexible motion that enables the government to regulate the promotion of tobacco and vapour products and accessories.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 32? Mr. Potts.

**Mr. Arthur Potts:** I think these kinds of issues are more properly addressed at the federal level through the Tobacco Act.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 32? If not, we'll proceed to the vote. Those in favour of NDP motion 32? Those opposed? NDP motion 32 falls.

We'll proceed now to the next section. We did not receive any amendments so far to schedule 3, section 6. Shall that carry? Carried.

We'll now proceed to the new section, which is schedule 3(6.1), the Smoke-Free Ontario Act. NDP motion 33: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that schedule 3 to the bill be amended by adding the following section:

“Signs in multi-unit dwellings

“6.1 Every owner or operator of a multi-unit dwelling shall ensure that signs warning about the health risks of smoking to oneself and one's neighbours are posted in or around the dwelling in the prescribed manner.”

**The Chair (Mr. Shafiq Qaadri):** Any comments on NDP motion 33?

**Mr. Taras Natyshak:** This is yet another recommendation by the Heart and Stroke Foundation that is borne out of their testimony here at committee.

**The Chair (Mr. Shafiq Qaadri):** Any further comments? If not, we'll proceed to the vote. Those in favour of NDP motion 33? Those opposed? NDP motion 33 falls.

We'll proceed now to the next section. We still have not received any amendments to date. Shall schedule 3, section 7 carry? Carried.

We proceed now to the next section, which is schedule 3 to the bill, section 8, the Smoke-Free Ontario Act, 2017. NDP motion 34. Mr. Natyshak.

**Mr. Taras Natyshak:** I move that section 8 of schedule 3 to the bill be amended by striking out “unless it is packaged in accordance with the regulations” at the end and substituting “unless it is packaged in accordance with the regulations and meets any other prescribed conditions”.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 34? Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Yes. The federal government is the more appropriate regulator of the manufac-

ture and packaging of tobacco and vapour products. The government thinks it's more appropriate that the federal government deals with this.

**The Chair (Mr. Shafiq Qaadri):** Are there any further comments on NDP motion 34? If not, we'll proceed to the vote. Those in favour of NDP motion 34? All opposed? NDP motion 34 falls.

Shall schedule 3, section 8 carry? Carried.

We will now proceed to the next section, which is schedule 3 to the bill, section 9, the Smoke-Free Ontario Act, 2017. NDP motion 35: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that section 9 of schedule 3 to the bill be amended by adding the following paragraph:

“1.1 A cigarette paper, tube or filter that contains a flavouring agent or that is represented by its packaging, advertising or otherwise as being flavoured.”

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 35? Seeing none, we'll proceed to the vote. All in favour of NDP motion 35? All opposed? NDP motion 35 falls.

We'll proceed now to the next motion, schedule 3 to the bill, section 9, the Smoke-Free Ontario Act, 2017. PC motion 36: Mr. Hillier.

**Mr. Randy Hillier:** I move that paragraph 2 of section 9 of schedule 3 to the bill be struck out.

**The Chair (Mr. Shafiq Qaadri):** Comments?

**Mr. Randy Hillier:** This is the amendment that deals with flavours and the government's authority and lawfulness to restrict or prevent flavours for vaporizers being sold in the province, which I believe is incompatible with the testimony that we've heard at this committee, and incompatible and detrimental to assisting people to quit smoking and reduce their smoking.

**The Chair (Mr. Shafiq Qaadri):** Comments? Mr. Potts.

**Mr. Arthur Potts:** I appreciate bubble gum flavour as much as anyone, but I think we can deal with this effectively in regulations—we'll have lots of input—so that flavoured vaping won't become a gateway, if it's determined that it has become so. I'm not saying it is, but it leaves the flexibility open.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on PC motion 36? Mr. Hillier.

**Mr. Randy Hillier:** I think we could probably just do away with the Legislative Assembly and have all laws done behind closed doors at Mr. Potts's behest—

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier, is that a formal motion? We'll need it in writing.

**Mr. Randy Hillier:** You know what? That would be a good one, but I think I'm past my time to enter in new motions, under the time allocation process that we're working under.

**The Chair (Mr. Shafiq Qaadri):** Mr. Romano.

**Mr. Ross Romano:** I'm wondering if perhaps Mr. Potts can enlighten me as to how you would specifically prohibit something in an act and then in the regulations provide for it.

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts.



**Mr. Arthur Potts:** As I indicated earlier, the act actually permits everything except those which are prohibited by the regulations. I think you're reading it backwards, with respect to flavouring, certainly.

**Mr. Ross Romano:** Right, the act is prohibiting—

**Mr. Arthur Potts:** No, the act is permitting everything except that which is prohibited by regulation.

**Mr. Ross Romano:** Right.

**Mr. Arthur Potts:** Anyway, I appreciate that.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.  
1440

**Mr. Taras Natyshak:** I'm in agreement with the definition in the act as it relates to flavoured products, and this motion would essentially prevent the government from banning any flavoured vapour product, including products that are demonstrably harmful. Those are products that may have not even been created yet, but for future reference, I think it safeguards the health and well-being of consumers of flavoured vapour products. If something comes on the market that is of a nature and of a formula that is then eventually proven to be harmful, the government should have the ability to identify it and to regulate it.

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 36? Mr. Hillier.

**Mr. Randy Hillier:** Recorded vote, please.

#### Ayes

Hillier, Romano.

#### Nays

Berardinetti, Dhillon, Mangat, Natyshak, Potts, Rinaldi.

**The Chair (Mr. Shafiq Qaadri):** PC motion 36 falls. Shall schedule 3, section 9 carry? Carried.

We will consider the next two en bloc as well. Shall schedule 3, sections 10 and 11 carry? Carried.

We shall proceed now to section 12, which is schedule 3 to the bill, subsection 12(1), paragraph 2, the Smoke-Free Ontario Act, 2017. NDP motion 37: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that paragraph 2 of subsection 12(1) of schedule 3 to the bill be struck out and the following substituted:

"2. Smoke or hold lighted cannabis."

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 27?

**Mr. Taras Natyshak:** Section 12 protects people from second-hand tobacco smoke and from second-hand medical cannabis smoke but oddly does not protect people from second-hand recreational cannabis smoke. While the Cannabis Act does regulate where one may smoke non-medicinal cannabis, it's not as comprehensive as the protections that exist under the Smoke-Free Ontario Act, and there's a risk that the failure to regulate second-hand recreational cannabis smoke in this act may open up unintended loopholes. People who need

protection from cannabis smoke do not care whether the smoke comes from medical or non-medicinal cannabis, so the Smoke-Free Ontario Act should not make such distinctions either, unless there is a good reason to do so.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 37? Seeing none, we'll proceed then to the vote. Those in favour of NDP motion 37? Those opposed? NDP motion 37 falls.

We'll proceed now to the next motion, schedule 3 to the bill, section 12, the Smoke-Free Ontario Act, 2017. NDP motion 38: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that section 12 of schedule 3 to the bill be amended by adding the following subsection:

"Same

"(1.1) No person shall consume a tobacco product in any of the following:

"1. A place mentioned in paragraph 3 or 4 of subsection (2).

"2. Any other prescribed place or area, or any other place or area that belongs to a prescribed class."

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 38? Mr. Natyshak.

**Mr. Taras Natyshak:** No one shall consume tobacco on school grounds, as written in the Smoke-Free Ontario Act. It bans the smoking of tobacco on school grounds, but it does not ban other forms of tobacco consumption, such as chew. This amendment closes that loophole.

**The Chair (Mr. Shafiq Qaadri):** Further comments? Mr. Potts.

**Mr. Arthur Potts:** It takes me back to my high school days, when I used to experiment with medical snuff and tobacco snuff—

**Mr. Taras Natyshak:** Medical snuff?

**Mr. Arthur Potts:** Yes. It was fantastic for helping with a cold.

We can address those issues under regulations in the Smoke-Free Ontario Act, and we'll leave it there.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on NDP motion 38? If not, we'll proceed to the vote. Those in favour of NDP motion 38? Those opposed? NDP motion 38 falls.

Shall schedule 3, section 12 carry? Carried.

We now to proceed to the next section, which is schedule 3 to the bill, subsection 13(1), the Smoke-Free Ontario Act, 2017. NDP motion 39: Mr. Natyshak.

**Mr. Taras Natyshak:** I'd like to withdraw that amendment.

**The Chair (Mr. Shafiq Qaadri):** Thank you for withdrawing NDP motion 39.

Schedule 3 to the bill, subsection 13(1), Smoke-Free Ontario Act, 2017. NDP motion 40: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsection 13(1) of schedule 3 to the bill be amended by striking out "does not apply to a person who smokes or holds lighted tobacco or to a medical cannabis user who smokes or holds lighted medical cannabis or who uses medical cannabis through an electronic cigarette" in the portion before paragraph 1 and substituting "does not apply to a



person who smokes or holds lighted tobacco or cannabis or who uses an electronic cigarette”.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 40? Seeing none, I'll proceed to the vote. Those in favour of NDP motion 40? Those opposed? NDP motion 40 falls.

We'll proceed now to schedule 3 to the bill, subsection 13(2), the Smoke-Free Ontario Act, 2017. NDP motion 41: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsection 13(2) of schedule 3 to the bill be amended by,

(a) striking out “does not apply to a person who smokes or holds lighted tobacco or to a medical cannabis user who smokes or holds lighted medical cannabis or who uses medical cannabis through an electronic cigarette” in the portion before paragraph 1 and substituting “does not apply to a person who smokes or holds lighted tobacco or cannabis or who uses an electronic cigarette”; and

(b) striking out “or medical cannabis user” in paragraph 1.

**The Chair (Mr. Shafiq Qaadri):** Any comments on NDP motion 41? Seeing none, I'll proceed to the vote. Those in favour of NDP motion 41? Those opposed? NDP motion 41 falls.

Schedule 3 to the bill, subsection 13(3), the Smoke-Free Ontario Act, 2017, NDP motion 42: Mr. Natyshak.

**M. Taras Natyshak:** Merci, monsieur le Président.

**Le Président (M. Shafiq Qaadri):** Motion 42.

**Mr. Taras Natyshak:** I'm just trying to realign myself here. Okay, thank you, Chair.

I move that subsection 13(3) of schedule 3 to the bill be amended by striking out “lighted medical cannabis” and substituting “lighted cannabis”.

**Le Président (M. Shafiq Qaadri):** Merci beaucoup. Plus de commentaires, questions?

**Mr. Arthur Potts:** I'm very aware of this issue, that medical cannabis and cannabis are practically the same substance. The medical cannabis is dealt with in schedule 1, and this is another schedule, dealing with recreational cannabis, so there's confusion there. But I think what it allows is that those who are holding a prescription will have a little bit wider latitude than those who don't, and that's to respect the medical quality of their need as opposed to the recreational need. So we'll be voting against this. But it is a little confusing.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 42? Mr. Hillier?

**Mr. Randy Hillier:** I would just add that most government laws are confusing the way that they're done these days.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Hillier. We'll proceed, then, to the vote.

**Mr. Taras Natyshak:** No, Chair, sorry.

**The Chair (Mr. Shafiq Qaadri):** Sorry?

**Mr. Taras Natyshak:** I just wanted to elaborate on this amendment.

**The Chair (Mr. Shafiq Qaadri):** Yes, go ahead.

**Mr. Taras Natyshak:** The purpose of the amendment is to allow people to smoke cannabis, not just medical cannabis, in workplaces that are research or testing facilities for cannabis. This seems to fulfill the intent of this exemption but without risking unintended consequences or loopholes by arbitrarily singling out medical cannabis. We're doing a little bit of work for you, is what we're doing, as a point of clarification for my colleague Mr. Potts. These are the loopholes that we are tasked with finding and proposing to the government for consideration.

Whether you vote against it or not is up to you, but we're doing our due diligence in identifying where potential loopholes could exist. Unintended consequences could potentially harm people that the bill never thought of.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on NDP motion 42? Seeing none, I'll proceed to the vote. Those in favour of NDP motion 42? Those opposed? NDP motion 42 falls.

Shall schedule 3, section 13 carry? Carried.

We now proceed to a new section, schedule 3 to the bill, section 13.1, the Smoke-Free Ontario Act. PC motion: Mr. Hillier.

**Mr. Randy Hillier:** We're on 43, are we?

**The Chair (Mr. Shafiq Qaadri):** Yes.

**Mr. Randy Hillier:** I move that schedule 3 to the bill be amended by adding the following section:

“Electronic cigarette lounges

“13.1(1) Subsection 12(1) does not apply to a person who uses an electronic cigarette in an electronic cigarette lounge that meets the following requirements:

“1. Entrance into the electronic cigarette lounge must be restricted to persons 19 years of age or older.

“2. Only the use of regulated substances in electronic cigarettes is permitted in the electronic cigarette lounge.

“3. Signs are posted in the electronic cigarette lounge to indicate that electronic cigarette use is permitted in the electronic cigarette lounge.”

**The Chair (Mr. Shafiq Qaadri):** Any further comments? Mr. Natyshak?

**Mr. Taras Natyshak:** Chair, while the NDP supports the consideration around lounges and specifically in the context of tourism that we anticipate from other jurisdictions, this amendment is particularly vague around some of the enhanced protections that we would have expected, given the nature of the action performed in these said lounges. Mainly, one of the glaring omissions is any form of required ventilation in these facilities and protections around employees who would be within those facilities. There is no prescription here whatsoever. That seems a little bit risky, given the context of what will actually be allowed in these facilities.

1450

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts and Mr. Berardinetti, as you like.

**Mr. Arthur Potts:** Yes, I have a lot of empathy for the direction this is going. I think that, in the interest of harm reduction, we should be providing greater access to



those who vape as opposed to those who smoke. To Mr. Natyshak's point, the fact that it is a little vague means that we can deal with this in regulations better. I would like to see an environment where, in order to encourage more people in harm reduction, we make it more restrictive to smoke medical marijuana, recreational marijuana and cigarettes.

I'm certainly looking to further consultations. It needs broader public consultations to see where we could put these lounges.

**The Chair (Mr. Shafiq Qaadri):** Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** He just took the words out of my mouth.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier.

**Mr. Randy Hillier:** I think, again, clearly understanding what else is in the statute—at the moment, there is no provision in the statute for the government to create these lounges or permit these lounges. That's the key that, I think, has to be looked at. Any indoor use other than in a dwelling is prohibited. Having an amendment such as this incorporated now would give the government lawful authority to permit them, as well as—using Mr. Potts's favourite methodology—then to go behind closed doors and create the regulations that might determine or dictate ventilation requirements and/or other elements. But at the present time, there is no provision within the act to permit those lounges.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.

**Mr. Taras Natyshak:** This bill has challenged us to envision a whole new reality in the province and scenarios that many of us have never been a part of or experienced. In this specific case, I can see the need. We heard testimony here around the need for cannabis lounges for the safe consumption of recreational cannabis. We heard that they are welcomed by law enforcement in the communities in which they currently operate. We heard that they are a venue for tourists who will be visiting areas where they won't have access to a private dwelling. So there are a lot of pros to supporting the regulating of the creation of this.

However, I want to ask my colleague Mr. Hillier if he would consider that the amendment that he has proposed is vague around the nature of the safety that's required and the interest of public safety that isn't inherent in this bill. One of the scenarios that I can envision is if someone is in one of these lounges—again, hypothetical, right? But we have to do this. We're tasked with thinking about as many different actions as possible. If someone is in one of these facilities and is in medical distress and in need of a first responder, and if the first responder is coming in and you've got a lounge full of smoke, as it were—

**Mr. Randy Hillier:** Vapour. This is electronic cigarettes.

**Mr. Taras Natyshak:** Okay, vapour—then that's an unintended consequence that I don't think the amendment considers. We would wonder if the PCs would consider ensuring that regulations around ventilation and protections for the workers who are there are provided. If not, the amendment, as it is crafted, is just unsupportable.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier.

**Mr. Randy Hillier:** I think, as I stated earlier, this creates the enabling function so that it could be done. It doesn't restrict or prevent or prohibit the government from adding additional criteria into the establishment of vape lounges—or whether there would be ventilation or signage or anything else. They have the authority to do that.

I would just say: Let's not go too far down the wrong path here. If there's a medical emergency at a nightclub or a school dance where they have a fog machine, that doesn't pose a problem. Our paramedics still go into a school dance or a nightclub where they're producing fog or steam, the same as what these are.

To your first point: Nothing in this amendment limits or prohibits the government from adding additional criteria. It just sets out the general framework that somebody has to be over the age of 19 before they can go in, and that there must be suitable signage to indicate so. It would meet your interests of tourism as well.

You can see that this amendment is limited to strictly electronic cigarettes—vapourizers—not the second-hand smoke of smoking or combustibles, whether they be medical cannabis or anything else.

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 43? If not, we'll proceed to the vote.

**Mr. Randy Hillier:** Recorded vote.

## Ayes

Hillier.

## Nays

Berardinetti, Dhillon, Mangat, Potts, Rinaldi.

**The Chair (Mr. Shafiq Qaadri):** PC motion 43 falls.

Just as a reminder, Mr. Hillier, of procedure: It's one man, one vote in Ontario still.

PC motion 43 falls.

We'll now proceed to the next section, which is two sections.

Shall schedule 3, section 14 and 15 carry? Carried.

We'll now proceed to section 16. Schedule 3 to the bill, subsection 16(1), paragraph 2, the Smoke-Free Ontario Act, 2017. NDP motion 44: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that paragraph 2 of subsection 16(1) of schedule 3 to the bill be struck out and the following substituted:

"2. Smoke or hold lighted cannabis."

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 44? Mr. Natyshak.

**Mr. Taras Natyshak:** The amendment gives home workers the same protection against second-hand non-medicinal cannabis smoke as it exists with respect to medicinal cannabis smoke.

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 44? If none, we'll proceed to the vote.



Those in favour of NDP motion 44? Those opposed? NDP motion 44 falls.

We'll consider that section. Shall schedule 3, section 16 carry? Carried.

We'll now consider the next three sections en bloc, as we have not received any amendments or motions to date. Therefore, shall schedule 3, sections 17, 18 and 19 carry? Carried.

We'll now proceed to schedule 3 to the bill, subsections 20(1) and (2), the Smoke-Free Ontario Act, 2017. NDP motion 45: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsections 20(1) and (2) of schedule 3 to the bill be struck out and the following substituted:

"Inspectors

"(1) The minister may appoint inspectors for the purposes of this act and for the purposes of investigating contraventions of section 11 of the Cannabis Act, 2017.

"Inspection

"(2) Subject to subsection (4), for the purpose of determining whether this act or section 11 of the Cannabis Act, 2017 is being complied with, an inspector may, without a warrant or notice, and at any time, enter and inspect,

"(a) any place where a prohibition under section 5, 6 or 12 of this act applies;

"(b) the establishments of the manufacturers, wholesalers, distributors and retailers of anything to which this act applies; and

"(c) any place where the inspector has reasonable grounds to believe that an activity regulated or prohibited under this act or under section 11 of the Cannabis Act, 2017 is taking place."

1500

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 45? Seeing none, I'll proceed then to the vote. Those in favour of NDP motion 45? Those opposed? NDP motion 45 falls.

Shall schedule 3, section 20 carry? Carried.

We'll consider the next three en bloc, as we have not received any motions or amendments. Therefore, shall schedule 3, sections 21, 22 and 23 carry? Carried.

We'll now proceed to schedule 3 to the bill, subsection 24(1), the Smoke-Free Ontario Act, 2017. NDP motion 46: Mr. Natyshak.

**Mr. Taras Natyshak:** I move that subsection 24(1) of schedule 3 to the bill be amended by adding the following clause:

"(c.1) governing the promotion of tobacco products, tobacco product accessories, vapour products or prescribed products or substances;"

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 46? If not, we'll proceed to the vote. Those in favour of NDP motion 46? Those opposed? NDP motion 46 falls.

Schedule 3 to the bill, clause 24(1)(f), the Smoke-Free Ontario Act, 2017: NDP motion 47. Mr. Natyshak.

**Mr. Taras Natyshak:** I move that clause 24(1)(f) of schedule 3 to the bill be amended by striking out "medical cannabis" and substituting "cannabis".

**The Chair (Mr. Shafiq Qaadri):** Further comments on NDP motion 47? Mr. Hillier.

**Mr. Randy Hillier:** Were we going to deal with motion 30?

**The Chair (Mr. Shafiq Qaadri):** After this.

**Mr. Randy Hillier:** Oh, after 47. Okay. No comments.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on NDP motion 47? If not, then we'll proceed to the vote. Those in favour of NDP motion 47? Those opposed? NDP motion 47 falls.

Shall schedule 3, section 24 carry? Carried.

We'll now return to schedule 3, section 2, which was NDP motion 30, which was the one we stood down, deferred at that time. Mr. Natyshak, you do have the floor again. Schedule 3 to the bill, clause 2(b), the Smoke-Free Ontario Act, 2017: NDP motion 30.

**Mr. Taras Natyshak:** We will withdraw it.

**The Chair (Mr. Shafiq Qaadri):** We will therefore revert back to schedule 3. Again, to date, we have not received any amendments or motions proposed for sections 25 to 31, inclusive. I'll consider them en bloc. Shall schedule 3, sections 25 to 31, inclusive, carry? Carried.

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** This is just to adopt schedule 3, section 2, which contained NDP motion 30, which was withdrawn, so I'll just ask: Shall schedule 3, section 2 carry? Carried.

As you know, we have just passed schedule 3, sections 25 to 31, inclusive.

We will now ask you: Shall the title to schedule—

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** The PCs have a notice—

**Mr. Randy Hillier:** You call up schedule 3 for a vote, right?

**The Chair (Mr. Shafiq Qaadri):** Yes.

**Mr. Randy Hillier:** So you just do that.

**The Chair (Mr. Shafiq Qaadri):** Fine. First we'll do the title. Shall the title of schedule 3 carry? Carried.

Now I'm going to proceed to: Shall schedule 3, as amended, carry—now you have your notice.

**Mr. Randy Hillier:** Recorded vote.

**Ayes**

Berardinetti, Des Rosiers, Dhillon, Mangat.

**Nays**

Hillier.

**The Chair (Mr. Shafiq Qaadri):** Schedule 3, as amended, carries.

**Mr. Randy Hillier:** Chair?



**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier?

**Mr. Randy Hillier:** Could I beg your indulgence for a two-minute-and-30-second recess?

**The Chair (Mr. Shafiq Qaadri):** I appreciate the precision, Mr. Hillier. Absolutely.

*The committee recessed from 1504 to 1507.*

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. We are now back in session.

We are now considering schedule 4. I have not received any motions or amendments to date for sections 1 to 6, inclusive, so I will consider them en bloc. Shall schedule 4, sections 1 to 6, en bloc, inclusive, carry? Carried.

We now move to a new section, which is schedule 4 to the bill, section 6.1, the section 48.0.0.1 of the Highway Traffic Act. PC motion 48: Mr. Hillier.

**Mr. Randy Hillier:** I move that schedule 4 to the bill be amended by adding the following section:

“6.1 The act is amended by adding the following section:

“Police officer’s authority to detain

“48.0.0.1(1) If a police officer makes a demand under section 254 of the Criminal Code (Canada), the police officer may, if necessary, require the driver to accompany the police officer for the purpose of providing a sample of a bodily substance for an analysis by approved drug screening equipment.

“Definition

“(2) In this section,

““approved drug screening equipment” has the meaning prescribed by the regulations made under section 44.2.””

Chair, if I may, I’ll allow my colleague from Kitchener–Conestoga to provide some comment on this piece.

**The Chair (Mr. Shafiq Qaadri):** Mr. Harris.

**Mr. Michael Harris:** It’s a very important amendment that I hope the committee will absolutely consider. Clearly, there is a gap with this rushed cannabis legislation provincially. I’ll give you a bit of context, I guess, first off.

The CAA, the Canadian Automobile Association, conducted a survey, and engaged Ipsos, not too long ago with regard to the cannabis issue and so forth. I want to just read a couple of highlights that support this amendment.

When it comes to the safe use of cannabis, 74% of all respondents said that public education of cannabis-impaired-driving laws and penalties was most important to them, followed by health risks, at 68%. Road safety is front of mind for many, as 77% of respondents said that it was a concern for them once cannabis was legalized; and 66% believe cannabis-impaired driving will become more frequent.

1510

Slightly more than one in 10 drivers have driven in a car after smoking or ingesting marijuana. Current users are more likely to engage in marijuana-impaired driving, as two in five claim to have driven under the influence.

There is support for stricter fines and penalties for cannabis-impaired driving, as 75% of respondents were supportive, mostly lapsed and never-used segments, with the number dropping to 44% of current users favouring stronger penalties.

I will ask that ministry officials and lawyers come to the table. I will have some questions pertaining to this.

This amendment basically allows for—take the example of a regular G driver suspected of alcohol impairment, who would be compelled to take a Breathalyzer, but if they’re suspected of drug impairment, they will not be compelled to take a swab saliva test or an oral fluid test. They would be ordered to do a field sobriety analysis, obviously.

We compared this to other provinces that have tabled cannabis legislation. New Brunswick is actually one of the only other provinces that has in fact tabled legislation. We have basically lifted this amendment exactly from the New Brunswick legislation, which would allow police officers to require the driver to accompany the police officer for the purpose of providing a sample of a bodily substance for analysis by approved drug-screening equipment. Again, in New Brunswick, they allow for this, but Ontario, with this current bill, limits the testing to just young, novice and commercial drivers only, while the rest of the driving population would be subject to just the roadside sobriety test.

While the minister told us this morning in question period that all drivers are subject to testing, he also omitted to comment on what type of testing that is. He omitted it because he knows as well as I—and that’s the reason for this amendment—that the legislation excludes regular G drivers from oral fluid or oral swab testing. Our amendment would close that loophole and ensure that, no matter what the federal government does down the road, our motorists would have the protection of police being able to utilize oral screening for any driver they suspect of drug impairment.

Now, questions for lawyers or ministry officials—you’ll probably need to state your name, so I’ll let you do that and then I’ll commence my questioning.

**The Chair (Mr. Shafiq Qaadri):** Go ahead.

**Mr. Claudio De Rose:** Claudio De Rose, director for the safety policy and education branch.

**Mr. David Milner:** David Milner, counsel, legal services branch.

**Mr. Michael Harris:** It’s nice to see you guys.

I’ve proposed this amendment. Why wasn’t an oral fluid test written into legislation in the first place? Or, I guess, my question to you is: Am I correct to suggest that young, novice and commercial drivers only will be restricted to an oral fluid screening device. Yes or no?

**Mr. Claudio De Rose:** The legislation talks about zero tolerance for young, novice and commercial drivers based on the use of a federally approved screening device. That is the targeted approach that we decided to take. The approach we’ve taken is based on evidence associated with the risk of being involved in a collision and also is based on evidence of what we know from empirical data around where the highest usage rates are.



We targeted young drivers because they have a higher usage rate of cannabis than others in the driving population. What we know about young and novice drivers is that their level of risk associated with being involved in a collision is two to three times higher than all drivers. When you couple that risk factor, mainly due to driver inexperience, with cannabis use or alcohol use, the risk factor rises exponentially.

So we know we've got risk factors associated with these groups, and that's why they are the targeted groups that we're going with zero tolerance on. All drivers are subject to impairment laws. The zero-tolerance approach, with the use of the screening devices alone, is targeted to those groups where the risk factor is higher.

**Mr. Michael Harris:** Right, I get that—because you're right. We agree with you that the risk is more with those groups.

However, my question is: Would a regular G-class driver be subject to an oral fluid test?

**Mr. Claudio De Rose:** Yes, they can be.

**Mr. Michael Harris:** Can they refuse?

**Mr. Claudio De Rose:** The Criminal Code works hand in hand with the Highway Traffic Act. The Criminal Code is before Parliament. They are proposing the use of these screening devices as a tool to assist a police officer in a criminal investigation. Based on the fact that they're allowed in the Criminal Code, a police officer could use this screening device on any regular G driver as part of their ability to determine whether someone has an indication of impairment. So for criminal purposes, yes, they are allowed to be used on all G drivers.

**Mr. Michael Harris:** Is that only after someone fails a field sobriety test?

**Mr. David Milner:** No, that's if the officer has a reasonable suspicion that they have a drug or alcohol in their body. If they stop you and say, "Have you had a drink tonight?" and the answer is, "Yes, half an hour ago," they would give you a breath test. If you've admitted to taking drugs, or they smell them, then they have reasonable suspicion that there's a drug in your body and they can do the oral fluid test.

It's the results of the Criminal Code investigative procedure that come to the officer's knowledge, and then the HTA scheme is simply to be based on the extent of the officer's knowledge arising out of the Criminal Code process, to then give the officer the authority to demand licences and so forth.

**Mr. Michael Harris:** Is it only in a Criminal Code violation? So only impairment? What about—

**Mr. David Milner:** It is not so much a violation; it's simply in a circumstance where they have a suspicion that there's a drug or alcohol in the driver's body. They can go to the screening device stage of things, which would be the oral fluid sample, or the breath screening device. They could also do the standard field sobriety test at that point.

**Mr. Michael Harris:** The bill, as presented, is different from that of New Brunswick, and the purpose of this amendment would be to allow for a police officer to

require the driver to provide a sample of a bodily substance. This currently is not in the bill as it stands, right?

**Mr. David Milner:** No. The only section in the HTA that actually authorizes an examination or search of the person would be related to the section 48 limit on the concentration of alcohol being not more than 50 milligrams of alcohol per 100 millilitres of blood. In section 48, the officer is authorized to make inquiries or ask the driver to perform tests so that they can decide whether they have the basis for making a Criminal Code demand.

The only other things that we authorize tests for would be for young and novice drivers, whose alcohol and drug restrictions are purely under the HTA.

But in terms of your typical G driver in a typical vehicle, if the officer stops them and they have no suspicion that there's a drug or alcohol in their body, the Criminal Code doesn't allow them to take random samples. If they do have a suspicion that they have a drug or alcohol in their body, then they have a choice of the breath screening device, the oral fluid screening device and the standard field sobriety test. All of those things are available for all drivers at all times, based on the threshold of suspicion of the presence of a drug or alcohol in their body.

If the officer has a belief that there's a drug or alcohol in the body, which is the next step up in terms of certainty, in that situation they can use either the demand for a sample of breath that can be analyzed using the approved instrument—which is the much more expensive, fancy device kept back at the station, as opposed to the roadside device—or they can take blood, in the case of a drug.

**Mr. Michael Harris:** I've got a quote from MADD, Mothers Against Drunk Driving: "MADD strongly believes that the oral fluid screening devices will serve as a powerful tool for deterring drug-impaired driving, and that police officers should be able to use them on all drivers. The current restriction on using the oral fluid screening device for only novice and commercial drivers is a major policy flaw and will greatly restrict police officers' ability to apprehend drug-impaired drivers."

**Mr. David Milner:** I'm not sure why they reached that conclusion, because the HTA is silent on the testing of all drivers. The Criminal Code is the source of the officer's authority to do it. So if they can do it under the Criminal Code, they'll learn something. If they've learned something, the HTA allows them to then take steps for an administrative suspension.

**Mr. Randy Hillier:** Can I just ask a question? Under the changes in the federal Criminal Code that are in front of Parliament at the present time—we know that the refusal to provide a breath sample is a violation. The refusal to provide an oral sample or some other bodily fluid—is that contained in the revisions to the Criminal Code as well?

1520

**Mr. David Milner:** Yes. If you decline or fail to assist or refuse to give the sample or perform the test that the



officer asks of you, you wind up getting a charge, the penalties for which are comparable to actually having been found with a problem. Moreover, anyone who declines or refuses to do any of those tests winds up, under section 48.3 of the Highway Traffic Act, with a 90-day suspension at roadside.

**Mr. Randy Hillier:** Okay.

**Mr. Michael Harris:** Again, MADD suggests that there is a major policy flaw that will greatly restrict a police officer's ability to apprehend drug-impaired drivers by allowing the oral fluid screening device for only novice and commercial drivers. So there's clearly a gap within the Highway Traffic Act portion that prevents officers from using that oral fluid device on regular drivers.

**Mr. David Milner:** There's nothing in the HTA that allows the officers to use screening devices for young, novice, commercial or regular drivers. The authority to use those tests is entirely under the Criminal Code. If they get a result that's positive or leads to a problem, then the HTA would provide, with these proposed amendments, that the young driver, novice driver and commercial driver would essentially be subject to what we would refer to as to as a "zero tolerance requirement": that they can't have any positive result with the screening device test that the officer is going to be using.

**Mr. Michael Harris:** These screening devices are obviously federally approved but are used through the Highway Traffic Act. When do they start registering? At what nanograms do they start registering?

**Mr. David Milner:** I don't think there's a concrete answer to that yet. You might have heard more than me.

**Mr. Claudio De Rose:** The federal government has now proposed standards for the screening devices. This was maybe about a month ago. The proposal from the federal government, which is being subjected to consultation right now, is that they would set the presence to 25 nanograms of THC in saliva. But the important thing to note is that this has nothing to do, necessarily, with impairment levels, as associated with THC presence in blood. What they're proposing is that, at 25 nanograms of presence in saliva, that would be indicative of someone recently using cannabis, who then would be subject to penalties under the Criminal Code as long as officers have reasonable grounds to believe that someone is impaired.

**Mr. Michael Harris:** So zero tolerance really isn't zero tolerance, because the device will only start registering at 25; so 0 to 25 will be—you could still have it in your system and it not register, right?

**Mr. Claudio De Rose:** Right, yes. I think the important thing there is that it's all about recent use. Cannabis can linger on for days or weeks. We want to be able to introduce an approach where recent use is measured within a reasonable period of time that would actually correlate with your ability to safely operate a vehicle.

**Mr. Michael Harris:** Did the ministry have conversations with the federal government and the Attorney General's office on this particular matter? Did they?

**Mr. Claudio De Rose:** Yes.

**Mr. Michael Harris:** What did the federal government advise the province to do on this particular aspect of the Highway Traffic Act?

**Mr. Claudio De Rose:** The federal government's legislation is currently before Parliament; it hasn't passed yet. We're in a situation with the deadline that was imposed, where we need to move simultaneously with the federal legislation. What we've been doing is thinking through and working through with the federal government how the Criminal Code can integrate with the Highway Traffic Act.

**Mr. Michael Harris:** Did the federal government advise that similar amendments should be in place with regard to Bill 174?

**Mr. Claudio De Rose:** Did they advise that—

**Mr. Michael Harris:** —that this specific requirement of a driver to accompany a police officer for the purpose of providing a sample of bodily substance for analysis by approved drug screening equipment be included in your provincial legislation.

**Mr. Claudio De Rose:** Yes, I think that is a requirement in the Criminal Code, which is supported in the way the HTA is administered. They work hand in hand, so yes.

**Mr. Michael Harris:** Why was that left out, though? Why was this specific requirement left out of provincial legislation? I'm sure you meet with and discuss with your colleagues in other provinces. For instance, New Brunswick has this in theirs. Why is there a difference?

**Mr. David Milner:** I haven't read the New Brunswick legislation, so I don't know in what context they found it suitable to give the officer a power to require somebody to accompany them for a test. But the scheme we've always used for the roadside suspensions that occur in situations of impaired driving—those would be based on simply the facts that come to the officer's attention by following the Criminal Code procedures. So there's no restriction on the officer's ability to use whichever of the tests the Criminal Code provides for in the circumstances where they're allowed to use it. We haven't taken an approach where we try to supplement or overlap with Criminal Code powers, because once the officer is engaged in some process under the Criminal Code at the roadside, there are a variety of rules and restrictions that affect what has to be done, when it has to be done and how soon it has to be done. We don't want to inject any provincial interference into that roadside process for the officer.

**Mr. Michael Harris:** So if a regular G class driver who was drinking passed the field sobriety test, they may go on to do a breathalyzer and may blow 0.05, which would be, I guess, a fine. Is there—

**Mr. David Milner:** If their breath was over 50 milligrams of alcohol in 100 millilitres of blood, they would follow under the section 48 suspension regime, which is three days; seven days the second time; 30 days—

**Mr. Michael Harris:** Right. And would a regular G class driver who potentially—



**Mr. David Milner:** They're all susceptible to that.

**Mr. Michael Harris:** —is impaired by—not impaired, but has cannabis, but would not register to the impairment level, would they be subject to an oral fluid test?

**Mr. David Milner:** If the officer has a suspicion that they have drugs in their body, the officer can, under the Criminal Code, ask them to complete the oral fluid screening test. If that result was nil, then the officer would do whatever seemed appropriate at that point under the Criminal Code, which may be bringing the investigation to an end; I don't know. But if there's a positive result, the people under the HTA who would get an immediate consequence would be the young, novice and commercial drivers.

If a G class driver in a G car who's not young and not novice had a positive result in the standard field sobriety test, then whatever happens next in the Criminal Code process may involve that driver in further concerns, but there wouldn't necessarily be an immediate HTA consequence. But the officer at that point, for example, is entitled under the Criminal Code to make a demand for blood. Then the blood results would presumably come back, and they may indicate that the driver's blood concentration of THC is over some threshold that is set out in the Criminal Code, and that in itself can then lead to HTA consequences, as well as the Criminal Code.

**Mr. Michael Harris:** Thanks.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak, you had questions?

**Mr. Taras Natyshak:** Have you read the amendment that has been proposed by the PCs?

**Mr. David Milner:** I have.

**Mr. Taras Natyshak:** It seems that it's a provincial statute for the purpose of enforcing the Criminal Code, and we're wondering whether that's even allowed.

**Mr. David Milner:** I don't remember if the wording of the motion is that it's with reference to doing things under the Criminal Code, but there's nothing in the HTA that the officer is missing in terms of powers to—

*Interjection.*

**Mr. David Milner:** There isn't a gap in the HTA where they're without a power to require somebody to accompany them. They'd be able to accompany them if they were following their Criminal Code process. But there are very few circumstances in the HTA where the HTA is the origin of the officer's power to make the demand for the sample. In those provisions, there's already power for people to accompany the officer for that purpose.

**Mr. Taras Natyshak:** We're just thinking that the amendment would be better suited at the federal level, in their deliberations under Bill C-46 currently on the table.

**Mr. David Milner:** Again, in the Criminal Code scheme of things, I don't think there's any class of motorist out there who's been left out of the scope of what the officer can demand for samples.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on PC motion 48? Seeing none, we'll proceed to the recorded vote—not recorded. So we'll proceed—

**Mr. Randy Hillier:** Unless you want one.

**The Chair (Mr. Shafiq Qaadri):** All of those in favour of PC motion 48? All those opposed? PC motion 48 falls.

We'll now consider the next section, which is schedule 4, section 7. Shall schedule 4, section 7 carry? Carried.

We'll now consider the next section, which is schedule 4 to the bill, section 8, the subsection 48.0.2(7) of the Highway Traffic Act. PC motion 49: Mr. Hillier.

**Mr. Randy Hillier:** Motion 49? Oh, yes, I got ahead of myself.

I move that subsection 48.0.2(7) of the Highway Traffic Act, as set out in section 8 of schedule 4 to the bill, be struck out.

I'll turn that over to my colleague from Kitchener—Conestoga, Mr. Harris.

**The Chair (Mr. Shafiq Qaadri):** Mr. Harris.

**Mr. Michael Harris:** Thanks, Randy. Two weeks after our first ministry briefing, we had asked specific questions surrounding the procedures for police to follow to require further testing despite the medical exemption found within Bill 174. At the time, the ministry was unable to report the testing procedure for those suspected of impaired driving who have a medical certificate. We were promised those answers. We still have not had clarification from the ministry. I'm wondering if you can clarify to the committee today the procedures for the police around medical exemptions.

1530

**Mr. David Milner:** The purpose of this subsection (7) that's the subject of the motion is to ensure that if the person has consumed a particular substance for which they have a medical prescription, even though that substance is one of those that would be detected by the tests they've been given under the Criminal Code, the presence of it for young, commercial and novice drivers won't lead to the same type of roadside suspension that would be the case if the person did not have a prescription but had consumed the drug. This is not an exemption for drivers who are impaired or whose capacity to drive has been affected by the drug. If they're impaired at all, then the other provisions of the act will still capture them for roadside suspensions, and Criminal Code proceedings will still be applicable to them.

The exemption simply says that the officer, in circumstances where they would otherwise say, "You'll have to give me your licence. You're suspended now because this test found this drug in your body, and it's not there for any reason that's related to medical treatment"—in this circumstance, if the person has a prescription for the drug, then the officer would simply not demand the licence and not trigger the roadside suspension. But that's not going to get them out of trouble if they're impaired.

**Mr. Michael Harris:** If I'm a young, novice or commercial driver—and you're saying there's zero toler-



ance in operating a motor vehicle or a commercial vehicle—and I do a roadside oral fluid test and I register at over 25 nanograms, but yet I have a prescription, there would be no—

**Mr. David Milner:** No HTA roadside consequence—not for that simple presence of the drug. Again, if they were to fail the standard field sobriety test or the drug recognition expert test or provide some sort of sample of breath that shows an alcohol threshold over some limit, then there might be those consequences.

**Mr. Michael Harris:** So there's zero tolerance for some but not for the rest.

**Mr. David Milner:** The balancing act behind that policy choice is simply to make sure that the people who have been prescribed what is for them a medicine are not restricted from taking it, provided that it does not impair their ability to drive.

**Mr. Michael Harris:** That doesn't preclude them from taking it. But should they operate a motor vehicle?

**Mr. David Milner:** Again, the focus would be on impairment for these people with the prescription for the drugs. If they're impaired, they'll be caught by the other provisions, but if they're not, they won't.

**The Chair (Mr. Shafiq Qaadri):** Any further comments? Mr. Hillier.

**Mr. Randy Hillier:** Just for clarity and understanding—we'll just use a commercial driver; we'll keep it nice and simple. A commercial driver who has 25 nanograms of THC in their blood would be subject to an immediate roadside suspension of their driver's licence and a fine. We're saying that person poses a danger to the motoring public, to public safety, and we're suspending that person's licence immediately. However, if they have a medicinal marijuana vial or something on them, then we're saying that person is not the same danger to the motoring public and that person is not subject to the roadside suspension?

**Mr. David Milner:** The objective of risk reduction by insisting on an approach that limits for commercial, young and novice drivers their recent consumption, effectively, of marijuana or other drugs—we expect fewer incidents of impaired driving than would be the case otherwise, because the tolerance for any presence of the drug in their body is so low. But for the driver who has a medical reason for having consumed it, its presence is detected, but they are not impaired insofar as any test can reveal. Those people are not taken off—

**Mr. Randy Hillier:** As I posed the question to you, I didn't say anything about being impaired. I'm just saying: If two drivers of the same age are driving the same sort of vehicle and they both get tested and both have 25 nanograms of THC in their saliva, one is deemed to be a danger on the road and subject to an immediate roadside suspension; the other, under the exact same conditions, who has a vial of medicinal cannabis, is not deemed to be a danger on the roadway and is allowed to motor on.

**Mr. David Milner:** I understand the point. The simple answer is, yes, one of them would get an HTA conse-

quence because of the presence of the THC in their saliva and the other would not; however, at this stage of things, marijuana has never been legal. We don't have any research to suggest that one of those truck drivers is consistently a bigger or a smaller risk than the other, and we don't generally know—

**Mr. Randy Hillier:** If we don't know but we're exacting a penalty and a punishment, though, for one and not for the other, we're saying that one is a danger—an absolute danger and an immediate danger—and therefore must be subjected to roadside justice, but the other is not a danger at all.

**Mr. David Milner:** I don't think we're distinguishing between how much of a risk they pose to other users of the road or themselves. I think we're distinguishing on the basis that the rationale for consumption of the drug that has been detected—using the Criminal Code saliva test or whatever they're using—is one for which their consumption of it has a medical reason. It has been given to them as medicine, effectively. We weren't looking to balance the penalties so that they landed more or at all on people whose consumption of the drug had a medical reason.

**Mr. Randy Hillier:** I just want to follow up because, again, we have not been able to get clarification from the ministry, not only in this amendment, but in a subsequent amendment as well. The act says “somebody driving a commercial vehicle.” Can you give me your view of what a commercial vehicle is?

**Mr. David Milner:** What type of commercial vehicle it is will be defined in a regulation at a later date, but we're anticipating larger ones as opposed to smaller.

**Mr. Randy Hillier:** But at the present time, the MTO definition of a commercial vehicle is anything built on a truck chassis, including pickup trucks.

**Mr. David Milner:** There are some definitions in the HTA that would use that as a model for certain types of road-building machine or other devices, but again, I'm assuming that since there are several classes of drivers' licences. Classes A through F are for larger or different types of vehicle that are typically called—

**Mr. Randy Hillier:** I'm not talking about the drivers' licences; I'm talking about the vehicle. You either have a blue plate for a passenger vehicle or you have a black plate for a commercial vehicle.

**Mr. David Milner:** I couldn't tell you at this point, with the regulations still to be done in the future, if this bill were passed. I can't tell you what goes in the basket of “commercial vehicle,” but by regulation one would anticipate that it wouldn't be small vehicles; it would simply be the larger ones.

**Mr. Randy Hillier:** I find this astonishing. We've been trying to get clarification on this since the bill was tabled, and we still can't get a definitive answer from anybody in the ministry of what this commercial vehicle driver is. Is it me driving my pickup truck that has commercial plates—the black-lettered plates—but is used for passenger service only; I can't put the blue-lettered plates on my pickup truck—or is it a highway tractor? It



doesn't say "highway tractor." It doesn't say, "commercial vehicles over 6,000 pounds"; it just says, "a commercial vehicle."

**Mr. David Milner:** If this bill were to pass, that's a decision that has to be made for the regulations to be—the provisions for commercial drivers couldn't come into effect if someone didn't make a decision and make the regulations.

**Mr. Randy Hillier:** So we'll talk more about that in the next one, but it still doesn't square the circle here for me that one person with 25 nanograms, or maybe 30 nanograms—I guess 25 nanograms; we'll use that—is deemed to be an immediate danger on the road, and the other person is not deemed to be any danger at all. I would like to hear Ms. Des Rosiers's comments on that disparate and apparent contradiction in the legislation.

**The Chair (Mr. Shafiq Qaadri):** Mr. Romano and Mr. Harris wanted the floor as well.

*Interjections.*

**The Chair (Mr. Shafiq Qaadri):** That's fine; I understand. Madame Des Rosiers, go ahead.

**M<sup>me</sup> Nathalie Des Rosiers:** Very quickly: I think if you have a prescription, presumably it means that you are suffering from what we would call a disability. You are entitled to use cannabis for the purpose of your health.

So the distinction between someone who doesn't need to use cannabis for health versus someone who needs cannabis for health is a legitimate distinction. If I understood, and I think it's clear that if there's an impairment on the ability to drive, then that will certainly be caught. That's the distinction: Whether you are entitled to smoke. I think one of the arguments that was made is simply that you're not permitted to be impaired on the road, but we won't presume impairment simply because you are smoking it for health reasons. Otherwise we would be—

**Mr. Randy Hillier:** But we will presume it for the other?

1540

**M<sup>me</sup> Nathalie Des Rosiers:** Yes, true, because one of the questions is the ability of the system. There will be the ability of the human body to adjust to the smoking. It could very well be that in five years we will strike it differently; we'll say that 25 nanograms is not enough to be impaired. This approach up to here has been very cautious, to say we will presume that if you're smoking only for pleasure, we will be very cautious about allowing you on the roads. That, I think, was part of it. The exception is, we're not going to be as strict when there is someone who does it for medical purposes, unless there is evidence of impairment. I think I'm summarizing it appropriately in light of what you said.

**The Chair (Mr. Shafiq Qaadri):** I'm going to give the floor to Mr. Natyshak and then come back to the PC colleagues. Mr. Natyshak.

**Mr. Taras Natyshak:** Thank you, Chair. For clarification on the commercial vehicle designation, what are the requirements for a commercial vehicle operator's registry for someone who needs to get a CVOR?

**Mr. David Milner:** You're asking who needs to get a CVOR?

**Mr. Taras Natyshak:** Yes. Who is required to get a CVOR?

**Mr. David Milner:** It's a fairly lengthy definition.

**Mr. Taras Natyshak:** Okay.

**Mr. David Milner:** It would start with vehicles of a certain size that would always be included. Any vehicle, for example, that has an actual weight or registered gross weight over 4,500 kilos would be included, but there are exceptions to that: for example, vehicles leased for less than 30 days or vehicles which are transporting personal goods for personal reasons only and so on. There are other types—all buses would be CVOR. Anything with 10 passenger seats or more is going to be CVOR all the time.

**Mr. Taras Natyshak:** I guess, in a broad sense, someone who is a commercial vehicle operator is doing so in the process of some form of business, right?

**Mr. David Milner:** Usually, yes.

**Mr. Taras Natyshak:** I know what the concern is of my colleague Mr. Hillier. He's worried, as I think we would be, if the definition of "commercial vehicle" also captures just everyday drivers in other types of vehicles, like a pickup truck that would enter into that weight category but isn't used for a commercial purpose. I'd like some clarification on that. I've got a big pickup truck, and I certainly am not a commercial vehicle operator.

**Mr. David Milner:** I think the scope of the power to make the regulation would allow a "commercial vehicle" to be defined in any number of broad ways. Whether the choice is ultimately made to define it to a very small population of extremely large vehicles, or whether it's two thirds of what we might think of as commercial—I couldn't speculate which way it will land, but that's certainly the threshold that has to be crossed. Some decision has to be made about that if the bill were enacted before the regulation could be crafted.

**The Chair (Mr. Shafiq Qaadri):** Mr. Harris?

**Mr. Michael Harris:** The CVOR issue—

*Interjection.*

**Mr. Michael Harris:** Oh, sorry. Go, Ross.

**The Chair (Mr. Shafiq Qaadri):** Mr. Romano.

**Mr. Ross Romano:** When we spoke about the previous motion—I'm only using that as an example—we were talking about making lawful demands, and my friend was referring to Manitoba legislation.

**Mr. Michael Harris:** New Brunswick.

**Mr. Ross Romano:** New Brunswick; sorry. The reasoning that you were suggesting general disagreement with that was because the Criminal Code already mandates that. It's already provided for in the Criminal Code, and it's duplicative. I guess that's a fair way to characterize, I think you would agree? It looks like you're nodding in the affirmative.

My questions or my comments with respect to what we're discussing right now is—I'm going to say as a starting point that if it's okay to have that perspective there, then why wouldn't we have that perspective with respect to what we're discussing right now in the motion?

I'll be specific. Under the Highway Traffic Act currently, as it currently reads—obviously you're well aware



of roadside screening devices and the powers police have with respect to those. We know, and most people know, that if I blow into a roadside screening device because a police officer believes I've consumed alcohol, the test for an officer is very light. They just have to have a suspicion that I've consumed alcohol. If they're at all suspicious, at a very, very low threshold, I can blow into this device and I'll blow a green, a yellow or a red light. The green light means I've consumed less than 0.05, the yellow light means I'm between 0.05 and 1.0, and the red light is over 1.0. It's actually lower than the Criminal Code Breathalyzer of 0.08. So if I blow a red, this way, the law has mandated that that automatically gives the police the right to then take me to the station and blow into the Intoxilyzer, which gives a very definitive—

**Mr. Michael Harris:** Grading.

**Mr. Ross Romano:** —grading as to the BAC level in your blood.

Again, you're nodding in the affirmative. I trust that you know all of this, so I'll move forward from that. The reason I say that is to give some background.

You're talking about a device that will detect THC levels in the saliva, and we're saying that apparently the federal government is looking at 0.25 or 25 milligrams—whatever that is—because that's going to give us a good idea as to recent consumption.

**Mr. David Milner:** Yes, that's the expectation overall.

**Mr. Ross Romano:** The roadside screening device that is used for alcohol is a very, very similar type of usage. It gives a very—

**Mr. David Milner:** It's not so much recent usage. The alcohol breath screening is much better at reflecting concentration in blood from breath than the saliva test is capable of reflecting drug concentration in blood from saliva.

**Mr. Ross Romano:** Well, not the roadside—the Intoxilyzer. The roadside is a lot less of a—they have them in bars, for instance.

**Mr. David Milner:** The roadside screening devices are essentially the same technology as the approved instrument but without some of the measures and safeguards that the more expensive device has.

**Mr. Ross Romano:** Precisely.

**Mr. David Milner:** With drivers and alcohol, one of the facts we face is that there's a substantial body of empirical research that tells us about alcohol and concentration in blood and risk driving and so forth. We're fortunate that breath tests can reveal a concentration of alcohol in blood and that those results are pretty much uniform throughout the entire population. There are a few oddities where somebody who is accustomed to large amounts of alcohol may not display symptoms of impairment despite a large concentration of alcohol. But apart from those sorts of things, alcohol testing is pretty much a known quantity.

That's not the case with the saliva tests for drugs like THC or other drugs. In that instance, where you get concentration in saliva, the saliva concentration won't

tell you what the concentration in the blood is, nor will it give you information about impairment; nor is there a body of empirical research that tells us—

**Mr. Ross Romano:** No. It tells us of recent consumption, and that's the most important aspect. We know that recent consumption could lead to impairment. Just like you've said, there is data as well that a person—just because you're over 0.08 in alcohol doesn't mean you're intoxicated, but by legal definition you're impaired. There's a very, very big difference between impairment as defined under 253(1)(a) of the Criminal Code and intoxication. They're two completely different matters.

**Mr. David Milner:** Yes. They're completely different legal concepts in the Criminal Code charges. But there are very few instances where somebody with a concentration of 80 milligrams or more would not be—

**Mr. Ross Romano:** I practised in that area for 12 years, and I would very, very strongly beg to differ. But that's what the code is set up as. And there is supporting data on that. But that's not the point of what I'm getting at.

The point I want to make is this: We have devices that are capable of telling us about recent consumption of cannabis, which you were referring to. We're distinguishing between the use of marijuana or cannabis for medical reasons and then personal use, and we're distinguishing between commercial vehicles and recreational vehicles or other vehicles. The simple fact of the matter is, whether I use cannabis for recreational purposes or whether my doctor gives me a prescription tomorrow, and I smoke it or vape it or however I decide to do it, and I'm a first-time user or whatever the case may be, you cannot deny that (a) I will not reach a level of intoxication—the much higher concern—or (b) a level of impairment that would bring me within the Criminal Code parameters under 253(1)(a). And I can kill somebody. I could kill myself or I could kill someone else or seriously injure or harm someone or myself. That's the fact. It doesn't matter whether I'm driving a commercial vehicle. I could be driving my four-wheeler; I could be driving an 18-wheeler. Why should it matter what I'm driving or whether I'm using it for medicinal use or whether I'm using it for recreational use?

1550

Before you answer that question, I also want you to bear in mind that under the Highway Traffic Act, we all know that driving is a privilege. It is not a right; it is a privilege. When I referred earlier to the green, yellow and red lights on the roadside screening device, the approved screening devices for alcohol use—if I blow a yellow, a police officer could take my driver's licence; right?

**Mr. David Milner:** Under section 48 of the HTA.

**Mr. Ross Romano:** Precisely. Why are we in any way drawing any kind of a distinguishing factor? Because we also know that I could be convicted under 253(1)(a) of the Criminal Code for impairment by drug if I'm taking prescribed medication—for instance, OxyContin—and driving a motor vehicle. We also know that under the Criminal Code and the way it has been interpreted in the



case law, it doesn't matter if I only blow 0.01 and I'm under the legal limit by far, but I'm fatigued, that the combination of fatigue plus the level of impairment could get me convicted of impairment by alcohol or drug. Why are we drawing a distinction?

**Mr. David Milner:** Between?

**Mr. Ross Romano:** Between impairment by drug and impairment by alcohol. It's the same thing.

**Mr. David Milner:** In terms of people having a prescription to use it?

**Mr. Ross Romano:** No, in terms of the fact that a person who uses marijuana, cannabis, for either medicinal use or recreational use, and whether they drive a commercial vehicle or a smart car or whatever you want to call it, still can kill somebody. That's the reality.

**Mr. David Milner:** Under the HTA, whether they're impaired by an illicit drug, a prescription drug or alcohol, if signs of impairment can be detected, then there are consequences set out for them in the HTA scheme as well as the Criminal Code.

But if they've taken a prescription medication and there are no indicia of impairment at all, then they're just like everyone else who has taken some other prescription medication, whether it's detected by the Criminal Code saliva test or not.

**Mr. Ross Romano:** No, that's false, because under the Highway Traffic Act, if a police officer has you blow into a roadside screening device—which all they require is a suspicion that you've consumed alcohol. It does not require any belief of impairment. Impairment does not in any way factor into the equation. It's simply: Do they believe you've consumed alcohol, period.

**Mr. David Milner:** You're talking about the threshold for screening—

**Mr. Ross Romano:** To blow into the screening device.

**Mr. David Milner:** Yes.

**Mr. Ross Romano:** If you blow a yellow light, regardless of impairment level—it has nothing to do with impairment—you can have your driver's licence suspended administratively, right there.

**Mr. David Milner:** Yes.

**Mr. Ross Romano:** Also, use stunt driving as an example. If I get clocked over 50 kilometres an hour, before I've had the opportunity to set out a defence, a due diligence defence or anything, my driver's licence will be suspended for seven days, immediately.

**Mr. David Milner:** It could be, yes.

**Mr. Ross Romano:** The car gets impounded—oh, “shall.” So once again, why is there any delineation? Why is there any difference being drawn? The simple fact of the matter is, we can't deny, we don't know and the federal government has not given us the indication or the appreciation of how this is even going to be tested; we don't know any of these things. What we do know is that marijuana, cannabis, is a drug. It does cause impairment. It does cause intoxication. It could cause a serious safety risk, and someone is going to get killed. That's the reality.

**Mr. David Milner:** So the distinction you're referring to is the distinction between drivers of everything versus drivers of commercial or young or novice drivers. Is that—

**Mr. Ross Romano:** I'm saying that there shouldn't be any distinction at all. It doesn't matter what you drive. If it's a motorized vehicle and you're on the road and you've consumed, you should be subject to the same provisions.

**Mr. David Milner:** I understand that it seems that way. The only difference is that for alcohol, we have a substantial body of research that goes back decades that tells us a lot of empirical facts about how to make policy. That's not the case with cannabis. In this instance, we're simply making what would appear to be the prudent decisions based on the information now available about actual risk and actual sources of danger. We're accommodating people who have prescriptions for use of medicine that would be detected by these screening devices. The end result would be that if they're not impaired, they're—

**Mr. Ross Romano:** My last question: We had a guy in here last week—I think it was the prince of pot or the guy who was—

**Mr. Randy Hillier:** Marc Emery is his name.

**Mr. Ross Romano:** The lady who was with him was trying to say that cannabis does not cause impairment. You clearly do not agree with that statement.

**Mr. David Milner:** I don't know why you would say that.

**Mr. Ross Romano:** You obviously do not agree with the statement. It causes impairment; right?

**Mr. David Milner:** My understanding is everybody would agree that it does, from empirical research.

**Mr. Ross Romano:** Yes, and it causes intoxication. So what more data do you need?

**Mr. David Milner:** Again, remember that with alcohol, your breath test for alcohol measures the concentration of alcohol in blood, which equates directly to impairment. Saliva tests for drugs don't equate to any known measurement of concentration in blood, nor do the concentrations in blood equate to impairment.

**Mr. Ross Romano:** They don't with alcohol, either. I think you've got enough knowledge. You know it impairs. You know it intoxicates. You know it could hurt somebody. That's the reality.

**The Chair (Mr. Shafiq Qaadri):** Mr. Harris.

**Mr. Michael Harris:** I've got a question; maybe Ms. Des Rosiers, from the government, can respond. A lot of this surrounds this whole zero-tolerance notion for young, novice or commercial drivers. You answered about those who may have a health issue who require it via a prescription versus those who don't. Clearly there are laws on the books that will deal with impairment, but I guess the government could answer back to us on confirming the fact that this actually isn't a zero-tolerance policy for young, novice or commercial drivers if you have a prescription, correct?

**M<sup>me</sup> Nathalie Des Rosiers:** I don't think I'm under cross-examination here.



**Mr. Michael Harris:** No, I'm just asking the government for—

**M<sup>me</sup> Nathalie Des Rosiers:** Any policy which requires accommodation on the basis of disability is correct. I think you have to have a policy that reflects the requirements that some people will need—that's what I was trying to explain.

**Mr. Michael Harris:** But just because you have a disability and you require a prescription, it doesn't allow you, or give you free rein, to actually drive or operate a motor vehicle, correct?

**M<sup>me</sup> Nathalie Des Rosiers:** Not to be impaired: That's the difference.

**Mr. Michael Harris:** I know, but if you're not impaired, if you record 25 nanograms on an oral fluid device, that's not impairment, but if you are a novice, young or commercial driver, that is enough for your so-called zero tolerance. However, if you have a prescription, you can continue on down the road. You may not be impaired, but you have cannabis in your system. Your so-called zero tolerance actually isn't zero tolerance because you're allowing those with a prescription to carry on their way versus those who don't, correct?

**M<sup>me</sup> Nathalie Des Rosiers:** There is an exception. That's correct.

**Mr. Michael Harris:** We believe there should not be. We believe if you are driving under the influence—

**Mr. Lorenzo Berardinetti:** Point of order, please.

**The Chair (Mr. Shafiq Qaadri):** Point of order, Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** The discussion is becoming a seminar. If the member wants to propose a private member's bill on his own regarding this matter, I think that would be more appropriate than trying to question us.

**Mr. Michael Harris:** No, I'm talking to the amendment.

**Mr. Lorenzo Berardinetti:** In questioning staff—

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Berardinetti. He is speaking to the substance of the bill.

**Mr. Michael Harris:** At the end of the day, we believe, through this amendment, that if you are—as my colleague stated, driving is a privilege here in the province of Ontario. If you're operating a motor vehicle and you have cannabis in your system and you register—you're treating people differently, and we believe that you shouldn't. That's why we've brought the motion forward, and we hope that the government supports this.

If they truly want zero tolerance for novice, young and commercial drivers, they'll support this; and if they don't, then I don't think they can actually say there's a zero-tolerance policy on our roads in Ontario, because there isn't. You will allow people who have cannabis in their system and who have a prescription, if asked or pulled over, to carry on. For those who don't, their licence gets taken away.

That's why we've put forward this amendment. We hope you'll support it.

**The Chair (Mr. Shafiq Qaadri):** Seeing no further debate, questions or comments on PC motion 49—

**Mr. Randy Hillier:** Recorded vote.

#### Ayes

Hillier, Romano.

#### Nays

Berardinetti, Des Rosiers, Mangat, Natyshak, Potts.

**The Chair (Mr. Shafiq Qaadri):** PC motion 49 falls.

We now consider schedule 4 to the bill, section 8, subsection 48.0.3(7) of the Highway Traffic Act. PC motion 50: Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 48.0.3(7) of the Highway Traffic Act, as set out in section 8 of schedule 4 to the bill, be struck out—with conviction.

**Mr. Michael Harris:** I'll speak to this one first, Chair.

**The Chair (Mr. Shafiq Qaadri):** You can, Mr. Harris, provide the conviction part.

**Mr. Michael Harris:** Okay. We understand the approach for commercial transport, and certainly the Ontario traffic act supports a zero-tolerance approach for their transport drivers, but the question remains as to, if we are targeting just transport trucks—when it comes to the definition of what constitutes a commercial driver, the Highway Traffic Act is, of course, all over the map. According to regulation 419/15, a commercial vehicle is a motor vehicle having attached to it a truck or delivery body, and includes an ambulance, a hearse, a casket wagon, a fire apparatus, a bus, and a tractor used for hauling purposes on a highway. Common pickups are otherwise defined by regulation as commercial vehicles in O. Reg. 424/97 further down.

#### 1600

Furthermore, while not all commercial vehicles require a commercial vehicle operator's registration, it appears that all pickup trucks are commercial vehicles under the act and would be subject to the provisions allowing for an automatic three-day suspension and possible vehicle impoundment under Bill 174, schedule 4, section 48.2.2, subsections (3), (6), (10) and (17).

I guess our question to the ministry is: Is a pickup a commercial motor vehicle and does it need a CVOR? The Highway Traffic Act considers all pickup trucks to be commercial motor vehicles.

**Mr. Randy Hillier:** Let me put this forward—and I think Mr. Potts would be well to listen to this, as well as members on the Liberal side. The way the act is written at the present time, it says that there's zero tolerance for people driving a commercial vehicle, right? My colleague just read one of the regulations that indicate pickup trucks are commercial vehicles. There's another regulation, O. Reg. 424/97, that states:

"In this section,

“‘pick-up truck’ means a commercial motor vehicle that,



“(a) has a manufacturer’s gross vehicle weight rating of 6,000 kilograms or less, and

“(b) is fitted with either,

“(i) the original box that was installed by the manufacturer, which has not been modified, or

“(ii) a replacement box that duplicates the one that was installed....”

The way the act reads right at the moment, anybody driving a pickup truck is subject to zero tolerance and you don’t need to have a CVOR. It doesn’t say a “commercial vehicle operator”; it says a “driver of the commercial vehicle.”

**Mr. David Milner:** The CVOR certificate scheme captures some pickup trucks and not others—

**Mr. Randy Hillier:** That’s right. The statute doesn’t reference CVORs; it references commercial vehicles.

**Mr. David Milner:** There is a section 1 definition of “commercial motor vehicle” that would include all pickup trucks.

**Mr. Randy Hillier:** Yes. So my question is—I think it’s important for the members opposite to know this—why is it that we’re treating somebody who drives a pickup truck substantially differently from the same person when they’re driving a sedan?

**Mr. David Milner:** Again, it depends on what the regulation eventually says commercial motor vehicles are for the purposes of this zero—

**Mr. Randy Hillier:** No, it doesn’t depend on what the regulation says. At the present time, what we have in front of us is the statute. The statute says that a commercial vehicle is a pickup truck. I’m asking the government side: Why are we treating somebody who drives a pickup truck substantially differently from somebody who’s driving a sedan in the statute?

**Mr. David Milner:** With respect to the zero presence of drugs?

**Mr. Randy Hillier:** Yes.

**Mr. David Milner:** Again, whatever “commercial motor vehicle” winds up being for the purposes of the zero threshold for tolerance for drugs, that will be defined by a regulation that would have to be written after the bill is passed.

**Mr. Randy Hillier:** No, it’s already defined.

**Mr. David Milner:** Well, the section 1 definition of “commercial motor vehicle” would apply in the absence of a regulation, but the regulation-making power under section 1 of the HTA is what would be relied on to make a regulation to define “commercial motor vehicle” for the purposes of this section.

**Mr. Randy Hillier:** But we can’t have multiple and various and differing definitions of the same word throughout the Highway Traffic Act. We can’t say that a commercial vehicle is a pickup truck under 6,000 kilograms, and a pickup truck is not a pickup truck under 6,000 kilograms.

**Mr. David Milner:** The term “commercial motor vehicle” or “commercial vehicle” is used for various purposes in the HTA, and there are several different

variations of the definition of what’s included. Some rules apply to—

**Mr. Randy Hillier:** I think we’re getting confused. There are differences with CVOR, a commercial vehicle operator’s registration, but I have not seen any various or conflicting definitions of what a commercial vehicle is.

**Mr. David Milner:** There’s a section 1 definition of what a commercial motor vehicle is, in the absence of a regulation, to say it means something else. Then there’s a regulation that sets out which different sections of the HTA get some specialized meaning of the term “commercial motor vehicle” and which ones are captured for the purposes of that section.

**Mr. Randy Hillier:** At the present time, the government is prepared to say, “We are going to put these significant prohibitions on people who drive pickup trucks, but not on driving sedans or minivans, and maybe we’ll get that right in the regulations afterwards. Just trust us.”

**Mr. Michael Harris:** That’s why we’re moving the amendment.

**Mr. Randy Hillier:** Could I get any comments from the members opposite about—

**The Chair (Mr. Shafiq Qaadri):** Are there any further comments on PC motion 50?

**Mr. Lorenzo Berardinetti:** Does Mr. Harris want to get any comments or responses to the question, or Mr. Hillier?

**Mr. David Milner:** I don’t want to repeat myself, but I’m simply saying that I don’t think anyone expects the commercial vehicles captured by this provision to be anything other than defined by regulation. I don’t think there’s any expectation that every commercial motor vehicle that meets the section 1 definition would be included. That would include the smallest flatbed truck or smallest pickup truck there is. There’s no anticipation that that’s what we’re looking at. The sorts of commercial motor vehicle that’s of concern are the larger ones that invariably outmatch whatever it is they hit and cause greater harm and damage just because of their sheer bulk and size.

**Mr. Randy Hillier:** Yes. I think we can all agree that larger commercial vehicles, highway tractors etc. can pose a greater amount of damage and risk to the driving public. I understand that, and that’s a fine argument, but the way the bill is written—I look at the bill not as what somebody may think the government may want to do, but what the actual wording of the bill states.

**Mr. David Milner:** Yes, and it’s subsection 1(10) of the HTA that’s the regulation-making power to redefine what falls into the commercial motor vehicle basket of any particular provision of the act, which would include this one.

**Mr. Randy Hillier:** Yes.

**The Chair (Mr. Shafiq Qaadri):** All three of you have volunteered to speak. Mr. Harris, Mr. Natyshak, and then Mr. Romano.

**Mr. Michael Harris:** Your comment just reinforces our position through this amendment to add and provide



clarity. We hope that the government supports that because that simply reinforces what you've said. That's why we propose it, to set it out in Bill 174.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak, then Mr. Romano.

**Mr. Taras Natyshak:** What currently constitutes a commercial vehicle with respect to zero tolerance around alcohol in the Highway Traffic Act?

**Mr. Michael Harris:** With or without a prescription.

**Mr. David Milner:** There's no current legislation for zero tolerance. It's just a—

**Mr. Taras Natyshak:** So there's not a zero tolerance? There's not a threshold, as a commercial vehicle operator with alcohol in your—

**Mr. David Milner:** No. Section 48 applies to all drivers of all vehicles. That's the threshold of 50 milligrams of alcohol per 100 millilitres of blood. That applies to all drivers.

**Mr. Michael Harris:** Without a prescription.

*Interjections.*

**Mr. Claudio De Rose:** The legislation does propose new zero tolerance for commercial drivers.

**Mr. Taras Natyshak:** Sorry. Chair, I can't hear. These guys are yapping in my ear here.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.

**Mr. Taras Natyshak:** Go ahead.

**Mr. Claudio De Rose:** The current legislation does propose zero tolerance for commercial drivers as well. I think you're asking about that, right?

**Mr. Taras Natyshak:** Yes. Okay.

**Mr. Claudio De Rose:** So we're proposing to have zero tolerance in place for commercial drivers for both alcohol and drugs. For alcohol, it would be the same regime that exists around zero tolerance for young and novice drivers as it pertains to alcohol. If they blow into the box at the same level a young or novice driver does, then they're getting a suspension. That's what the legislation is proposing.

**Mr. Taras Natyshak:** Okay.

**The Chair (Mr. Shafiq Qaadri):** To the PC side: Mr. Romano.

**Mr. Ross Romano:** You know what? I'm going to just start off as my last comment on this. I apologize if I seem like I'm grilling you or giving you a hard time. It's not my intention. You have a job to do; you've been tasked with a specific job. You're doing it and you clearly appreciate the legislation.

The government, at the end of the day, is putting this through and pushing it through in short order. I think we all see the reality here. We're talking about a drug that is defined as such. It is a drug, and it does cause a certain degree of intoxication or impairment. Like every other type of drug out there, whether you want to compare it to alcohol or other drugs, when people use it more often maybe impairment levels won't be so high. But it's not difficult to get prescriptions for it. It isn't, in this day and age—for cannabis, that is.

1610

We are drawing a distinction between medicinal or non-medicinal. We're drawing a distinction between

commercial vehicles or regular vehicles. Ultimately, it doesn't matter what the vehicle is; it could kill somebody. I'm sure you are very concerned that there is a very significant risk here. If we are going to provide people with this privilege to drive, with the opportunity to drive when they've consumed an intoxicating substance and we don't really know if they're impaired or not and we don't have the tools to understand that or to make sure that the police can act appropriately in relation to it, we're creating a real recipe for disaster on our highways.

It extends beyond our highways, if you look at the Motorized Snow Vehicles Act, which I know you're very well aware of as well. I could pull up a statistic, but look how many snow machine deaths there were last year alone and how many were contributed to because of intoxication. We're creating a really, really dangerous situation. I like the way my colleague Mr. Harris put it: We say there's zero tolerance, but it's not zero tolerance.

I call on the government to really look at this and not do this hastily. This isn't some bill that is just going to cost people money; this is a bill that's going to cost people's lives.

**The Chair (Mr. Shafiq Qaadri):** Are there any further comments on PC motion 50? Seeing none, we'll proceed, then, to the vote.

**Mr. Randy Hillier:** Recorded vote.

**Ayes**

Hillier, Romano.

**Nays**

Berardinetti, Dhillon, Mangat, Natyshak, Potts.

**The Chair (Mr. Shafiq Qaadri):** PC motion 50 falls.

We'll now go to schedule 4 to the bill, section 8, subsection 48.0.4(6) of the Highway Traffic Act, PC motion 51: Mr. Hillier.

**Mr. Randy Hillier:** I move that subsection 48.0.4(6) of the Highway Traffic Act, as set out in section 8 of schedule 4 to the bill, be struck out.

**The Chair (Mr. Shafiq Qaadri):** Are there further comments on PC motion 51?

**Mr. Randy Hillier:** We're continuing in the same vein, that it's not zero tolerance, but also a very—the law is not being created equally here. And if the law is not being created equally, there is no way it can be enforced equitably or fairly.

Again, motion 51 deals with pickup trucks, and I've read it in to the record already, but I'll just—this is straight off the MTO website.

**Mr. Arthur Potts:** Point of order, Chair.

**The Chair (Mr. Shafiq Qaadri):** Point of order, Mr. Potts?

**Mr. Arthur Potts:** I don't want to be a stickler for detail, but do we have the same restrictions on using electronic devices in committee as we do in the House?

**Mr. Randy Hillier:** No. No, we don't.



**The Chair (Mr. Shafiq Qaadri):** No, Mr. Potts. Thank you. Go ahead.

**Mr. Randy Hillier:** Maybe I should get the standing orders to send over to you.

**The Chair (Mr. Shafiq Qaadri):** As I amply demonstrate by—go ahead, Mr. Hillier.

**Mr. Randy Hillier:** It would be a terrible thing to kick the Chair out.

I'll just read this. This is from the MTO website:

"Is My Pickup Truck a Commercial Motor Vehicle...?"

"The Highway Traffic Act considers all pickup trucks to be commercial motor vehicles." Then it goes on; however, it does not require a CVOR unless you meet all these other conditions.

So I find it astonishing that the legislation would be drafted up in such a poor fashion. If, indeed, the government is looking to do what we've heard today, the words in the legislation should have been significantly modified. I'm not sure what the government's intention is. During our technical briefings on this bill with the MTO, we inquired as to what is the government's intention as to having a threshold on commercial vehicles. That could not be answered by the senior policy people attending the technical briefing. I've heard what has been said here today. I don't know—well, it's an opinion, but there's nothing to substantiate or warrant where that threshold will be created by regulation, or even if there will be a regulation created with regard to commercial motor vehicles.

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 51, if any? If not, we will proceed to the vote.

**Mr. Randy Hillier:** Recorded vote.

**Ayes**

Hillier.

**Nays**

Berardinetti, Dhillon, Mangat, Natyshak, Potts.

**The Chair (Mr. Shafiq Qaadri):** PC motion 51 falls.

We'll now proceed to the next motion, schedule 4 to the bill, section 8, subsection 48.0.4(8) of the Highway Traffic Act. PC motion 52: Mr. Hillier.

**Mr. Randy Hillier:** I move that section 48.0.4 of the Highway Traffic Act, as set out in section 8 of schedule 4 to the bill, be amended by adding the following subsection:

"Application

"(8) This section applies only in respect of persons driving or having the care, charge or control of a commercial motor vehicle who are required to hold a valid CVOR certificate under section 18."

Chair, here we are offering up—

**The Chair (Mr. Shafiq Qaadri):** Sorry, Mr. Hillier. Could I just get you to read the last line again?

**Mr. Randy Hillier:** The last line? The last sentence?

**The Chair (Mr. Shafiq Qaadri):** Yes.

**Mr. Randy Hillier:** "(8) This section applies only in respect of persons driving or having the care, charge or control of a commercial motor vehicle who are required to hold a valid CVOR certificate under section 16."

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Hillier. Go ahead. The floor is yours.

**Mr. Randy Hillier:** Here we're putting forth what we believe is reasonable language in the legislation, that it's not a commercial vehicle like a pickup truck, but defining that it's a commercial vehicle of a certain weight, a higher weight category, and that it's being used for commercial purposes. Any comments?

**The Chair (Mr. Shafiq Qaadri):** Thank you for asking, Mr. Hillier. I'll similarly ask: Are there any further—Mr. Potts?

**Mr. Arthur Potts:** I'm happy to comment on this. I believe the member opposite is correct and this may very well be a reasonable definition of a commercial vehicle, but I would want to test that in consultations with the industry. I would like to go out and find out what industry—it may be that the definition needs to be more stringent or less stringent. We want that flexibility, and that's our expectation in the regulation-making process. As our friends at the end of the table said earlier, that's where we'll be able to decide. The definition of a commercial vehicle changes depending on what statute you're operating under or what section of the statute. We want to be very clear that we're getting it right, which I'm very confident, Chair, we can do in regulations. So we will be voting against this.

**The Chair (Mr. Shafiq Qaadri):** Further comments on PC motion 52?

**Mr. Randy Hillier:** I just don't understand the absolute willingness by government members to not understand and define the laws that they're passing and to permit someone else to do their job. We are the legislators here. We are the ones who have been elected to craft laws and to protect our constituents' interests: that those laws that are passed have clarity, that there is ease of understanding, that they can be applied and executed fairly and that there aren't unforeseen or unjust penalties imposed on the people of Ontario. That's our job. I'm surprised the member from Beaches—East York says it's not his job; he's going let some regulator in—and what conversations with industry are being proposed or contemplated? Are you going to go to the Ontario Trucking Association and ask them to craft the regulation? Or are we going to go to Uber and have them craft the regulation? It is our job to pass the legislation.

1620

If the government is indeed sincere about ensuring safety on our roads, I think motion 52 provides that clarity. It won't unduly capture people who aren't to be captured. It sets it out: If you have a CVOR and if your vehicle is of such a size it requires a CVOR, then you have a different threshold of responsibility on the road.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.

**Mr. Taras Natyshak:** There seems to be a lack of consistency with the amendments put forward, respect-



fully. The previous amendments were attempting to encompass everyone, regardless of your medical status. The motions and the amendments put forward would ostensibly punish those folks with medical prescriptions for cannabis. That's what the amendments were to do, for the sake of public safety—which is a valuable endeavour. But now you're looking to potentially eliminate some of who is being captured.

So I want to know the consistency—do you believe that there should be exemptions or do you not believe that there should be exemptions? The two different amendments that you put forward are conflicting in their approach.

**Mr. Randy Hillier:** I don't think they should be—

**Mr. Arthur Potts:** I don't think he gets to respond.

**The Chair (Mr. Shafiq Qaadri):** It's up to you, Mr. Potts. If you want to intervene, go ahead.

**Mr. Arthur Potts:** I'll let him respond, then I'll talk about this.

**Mr. Randy Hillier:** I believe the legislation should have clarity and be defined. I don't see any inconsistency here. If it is the government's intention that people who drive pickup trucks should have a zero-tolerance approach, that there should be no detectable presence of alcohol or a drug, then clearly state that. That's what the legislation states. However, we've heard from the government and we've heard from the lawyers that they don't believe that that is the intention. If the intention is other, then let's have clarity in the bill, so we know what it is that we're passing and we can go back to our constituents tomorrow and say, "There's a bill that has been passed that says you cannot have any detectable presence of alcohol if you drive a pickup truck. So if you're going to go out for lunch and have a glass of wine, take your car and don't take your pickup truck."

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts?

**Mr. Arthur Potts:** Usually, I'm reluctant to respond to the presumptuousness of the member's assertion that our members don't understand the bill—but in this case, we do understand the bill. For us to be taking your back-of-a-napkin definition of a commercial vehicle that we've already heard from the experts at the table that we needed to—there are different sections doing different things. We want to make sure, with respect to legislation affecting medical use of marijuana and recreational use of marijuana, that we get it right. So we're going to go forward and do it that way. That's a very important consideration in the bill. We know we will have an opportunity to go out to the Ontario vehicle association, the truckers' association, to Uber, others. Why wouldn't we have a chance to consult with others and not just take the definition that in the last week you have put in front of us, saying, "This is what it has to be"? We get it, and, respectfully, you should be more respectful.

**The Chair (Mr. Shafiq Qaadri):** Mr. Hillier.

**Mr. Randy Hillier:** So on the back of the napkin that's identified as Ontario regulation 424/97—that's the back of the napkin that I read:

"(2) In this section,

"'pick-up truck' means a commercial motor vehicle that,

"(a) has a manufacturer's gross vehicle weight rating of 6,000 kilograms or less."

That's not the back of a napkin.

**Mr. Arthur Potts:** It's not what you have here. Fair enough.

**Mr. Randy Hillier:** That is a commercial motor vehicle, and that's what's included in this statute. As I read under the MTO website, [mto.gov.on.ca](http://mto.gov.on.ca)'s, commercial trucks frequently asked questions, "Is My Pickup Truck a Commercial Motor Vehicle?", the response from the MTO, the back of their napkin on their website, says, "The Highway Traffic Act considers all pickup trucks to be commercial motor vehicles." Okay?

I'm not going to belabour the point any longer. These are valid concerns. I don't think we should treat people who drive sedans differently than people who drive pickup trucks, and I don't think the law should be enforced differently for somebody who drives a pickup truck or drives a sedan.

The amendment in front gives clarity. Thank you, Mr. Chair.

**The Chair (Mr. Shafiq Qaadri):** Mr. Natyshak.

**Mr. Taras Natyshak:** I'm going to pass, Chair.

**The Chair (Mr. Shafiq Qaadri):** Are there any further comments on PC motion 52? If not, we'll proceed to the vote. Those in favour—

**Mr. Randy Hillier:** Recorded vote.

#### Ayes

Hillier, Romano.

#### Nays

Berardinetti, Dhillon, Mangat, Potts.

**The Chair (Mr. Shafiq Qaadri):** PC motion 52 falls. Shall schedule 4, section 8 carry? Carried.

We'll consider schedule 4, sections 9 to 16, inclusive, en bloc. Shall they carry? Carried.

We now move to schedule 4 to the bill, section 17, subsection 130(6) of the Highway Traffic Act, government motion 53. Mr. Potts.

**Mr. Arthur Potts:** I move that subsection 130(6) of the Highway Traffic Act, as set out in section 17 of schedule 4 to the bill, be amended by striking out "may consider" and substituting "shall consider".

**The Chair (Mr. Shafiq Qaadri):** Any comments? Mr. Hillier.

**Mr. Randy Hillier:** You might want to reread that one. It was subsection 136?

**Mr. Arthur Potts:** It was 130(6).

**Mr. Randy Hillier:** Not 136?

**Mr. Arthur Potts:** No.

**The Chair (Mr. Shafiq Qaadri):** Any further comments on government motion 53? Mr. Potts.



**Mr. Arthur Potts:** Yes. I had a nice, pregnant pause between 130 and (6) there, so I think it was maintained.

But this change, I think, is very important. We've heard from many victims and families about how the courts aren't taking into consideration things like licence suspension, retraining and victim impact statements, as seriously as they thought they should. By putting in the language and substituting "may" for "shall," we're putting a direction to the courts and the judiciary that they actually take a look at the impact of an accident. If there was careless driving that resulted in an accident, it's absolutely crystal clear that they "shall" consider some of these other measures, such as licence suspensions and retraining, in order to move forward. That kind of offence under the Highway Traffic Act would trigger a consideration by the judiciary. It doesn't tell them they must make the direction under these sections, but it means they absolutely must put their minds to it.

That's a consideration that we made, and it somewhat respects the spirit of the law that was brought forward by our friend from—Cheri DiNovo's riding; I can't remember. She, in her bill, was very clear about the importance of protecting vulnerable road users in order to ensure that they are recognized—that the hurt of a family who has lost a loved one will get at least the "shall consider" out of the judiciary, in order to look at the penalties associated with the pain that the family has suffered as a result, in the considerations going forward. That's why we've brought that particular piece in.

I think it covers off a good part of what the vulnerable-road-user people were asking us to do as they came before this committee—and there were enough of them. I know we were all moved in committee—our heartstrings were pulled—by some of the issues that they had associated with—

**The Chair (Mr. Shafiq Qaadri):** Mr. Potts and colleagues, a couple of things: With reference to the pregnant pause, Mr. Potts, I'm sure there's some kind of roadside test available for that.

In any case, we're now in time allocation. We also have a vote pending in—

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Oh, there's no vote? I'm sorry; Parliament is adjourned.

In any case, pursuant to the order of the House dated Wednesday, November 22, 2017, the proceedings are now interrupted and all questions and amendments etc. are now deemed to have been moved for Bill 174. We will now have, actually, no debate but proceed immediately to vote consideration.

Those in favour of government motion 53? Those opposed? Government motion 53 carries.

Shall schedule 4, section 17, as amended, carry? Carried.

We will consider the next sections en bloc: schedule 4, sections 18 to 22, inclusive. Shall they carry? Carried.

Shall schedule 4, section 22, as amended, carry?

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** Sorry. We've done that.

We now move to the next section, schedule 4 to the bill, section 22.1, the Highway Traffic Act, NDP motion 54. Those in favour of—

**Mr. Taras Natyshak:** Recorded vote.

**Ayes**

Natyshak.

**Nays**

Berardinetti, Dhillon, Mangat, Potts.

**The Chair (Mr. Shafiq Qaadri):** NDP motion 54 falls.

Shall schedule 4, section 23 carry? Carried.

Shall schedule 4, section 24(1), the Highway Traffic Act, NDP motion 55—

**Mr. Taras Natyshak:** Withdraw.

**The Chair (Mr. Shafiq Qaadri):** Withdrawn. Thank you.

Therefore, shall schedule 4, section 24 carry? Carried.

We'll consider the next sections en bloc: schedule 4, sections 25 to 28, inclusive. Shall sections 25 to 28 carry? Carried.

*Interjection.*

**The Chair (Mr. Shafiq Qaadri):** He wants to hear it. Shall schedule 4, sections 25 to 28, inclusive, carry?

**Interjection:** Carried.

**The Chair (Mr. Shafiq Qaadri):** I do thank you.

Shall schedule 4, as amended, carry? Carried.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 174, as amended, carry?

**Mr. Lorenzo Berardinetti:** Recorded vote, please.

**Ayes**

Berardinetti, Dhillon, Mangat, Potts.

**Nays**

Hillier, Romano.

**The Chair (Mr. Shafiq Qaadri):** Bill 174, as amended, carries.

Shall I report the bill, as amended, to the House? All those in favour? All those opposed? The bill will be reported duly by your able committee Chairman to the House. This committee is now adjourned.

*The committee adjourned at 1633.*







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## **STANDING COMMITTEE ON JUSTICE POLICY**

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Mr. Randy Hillier (Lanark-Frontenac-Lennox and Addington PC)

Mr. Taras Natyshak (Essex ND)

Mr. Lou Rinaldi (Northumberland-Quinte West L)

### **Also taking part / Autres participants et participantes**

Mr. Michael Harris (Kitchener-Conestoga PC)

Mr. Claudio De Rose, director, safety policy and education branch, Ministry of Transportation

Mr. David Milner, counsel, legal services branch, Ministry of Transportation

### **Clerk / Greffier**

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Ms. Tamara Kuzyk, legislative counsel